

Vol. I

(एन० जी० ओ० अनुभाग)
(N. G. O. SECTION)

फाइल नं०
File No. G-16(L)/2000-NGO
Vol. I

विषय :—(कृपया इस आवरण को उलटें)
(SUBJECT :—Please Turn Over)

Closed
See Vol. II

Heck

G-16(4)/2000-NGO

विषय :—
SUBJECT :—

Death / Disappearance of Netaji
Subhash Chander Bose :-

Justice Mukherjee Commission of
Inquiry

संबद्ध फाइलें :—

Connected Files :—

नं०
No. 915/11/C/2/2000-Pl विषय :—
Subject :—

- (1) G-12(18)/94-NGO
- (2) G-16(3)/95-NGO
- (3) G-4(2)/95-NGO
- (4) G-12(3)/98-NGO

किस तारीख को निकाली गई B/F Date	किस क्रमसंख्या के लिए निकाली गई For Serial No.	किस क्रम सं० का निपटान हुआ Disposal Serial No.	टिप्पणी Remarks

1/N

FR

The following files on Netaji Subhash Chandra Bose have been located in our records:

<u>Sl.No.</u>	<u>Files number</u>	<u>Subject</u>
1.	23(156)/51-PM ✓	Disposal of properties of Indian National Army in the far East.
2.	23(11)/56-57-PM	I.N.A. Treasure.
3.	2(64)/56-66-PM Vol. I to V	i) Death of Sh. S.C.Bose. ii) Appointment of an Enquiry Committee to go into the circumstances of the death.
4.	2(64)/78-PM	- do -
5.	2(64)/79-PM ✓	-do-
6.	2(64)/80-PM ✓	-do-
7.	2(64)/81-PM	-do-
8.	2(64)/82-PM ✓	-do-
9.	2(64)/84-PM ✓	-do-
10.	2(64)/86-PM ✓	-do-
11.	800/6/C/3/88-Pol ✓	-do-
12.	800/6/C/1/89-Pol ✓	Netaji Subhash Bose
13.	800/6/C/1/90-Pol ✓	-do-
14.	800/6/C/1/91-Pol ✓	Disappearance of Sh.S.C.Bose
15.	915/11/C/6/96-Pol ✓	Disapperance/death of Sh.S.C.Bose.
16.	915/11/C/9/99-Pol Vol.I, II & III ✓	-do-

It may be mentioned that the Commission has specifically mentioned about 3 files of PMO i.e.

- (i) 23(156)/51-PM
- (ii) 23(11)/56-57-PM
- (iii) 12(226)/56-PM

The files at (i) & (ii) are available in our records and placed below. The file at (iii) has since been destroyed.

Submitted please.

[Signature] 18/4/2000
[B.K.Dhal]
Under Secretary

~~Dir(CAT)~~ may like to see, wr. to minutes on F.R.
Secy. of the Commission would be informed accordingly, as requested by MHA.

~~JSCA)~~

[Signature] 18/4

[Signature] 24.7.2000

~~Dir(CAT)~~ *[Signature]* 1/5

~~hs(DP)~~

Draft letter to Secretaries, Justice Mukherjee Commission of Inquiry is placed below for approval please

[Signature] 2/5

~~Dir(CAT)~~ After confirming the name of the file at S. no 13 *[Signature]* 2/5

[Signature] 2/5

511.4/c

FR may kindly be seen.

Secretary, Justice Mukherjee Commission of Inquiry has requested that photo-copies of the files records concerning Netaji Subhas Chandra Bose INA as listed in our letter dated 2.5.2000 (F A) may be sent to him immediately.

He has also desired that the subject and contents of F.No.12(226)/56. PM and the circumstances under which the file was destroyed may be intimated to him.

It may be mentioned on this connection that the subject of the file was "Investigation into the circumstances leading to the death of Shri Subhash Chandra Bose". Since the files was opened in Cabinet meeting head, most probably this file contained the agenda paper minutes of the Cabinet meeting on the subject. The file register indicates that the file was destroyed on 6.3.1972 (perhaps ~~be~~ after routine review - because a set of agenda papers and minutes ~~are~~ kept permanently in Cabinet Secretariat.)

If approved we may send a reply on these lines. We may also start photo-copying the files. if approved.

[Signature]
31/5/2000

[B.K.Dhal]

Under Secretary

Dir(A) The files relating to the above subject in our office may be sent to the Commission of Inquiry, as requested by them. For the reasons regarding destruction of a file in PMO, we may inform them that it was destroyed on 6/3/1972 probably because a set of those papers are to be permanently maintained in Cab Sectt, as mentioned at 'A' above. We may reply accordingly.

[Signature]
31/5

JS (A)

[Signature]
2/6/2000

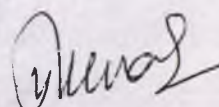
[Signature] 2/6/2000 US (P.O.) III

Reference notes on Page 3/n.

The photo-copies of the 16 files have been made. If approved, we may now send these to Secretary, Justice Mukherjee Commission.

Certain documents of F.No.23(156)/51-PM required by the Commission (F/A) have been destroyed while recording the file in 1969. The list of documents destroyed has been kept in the file (F/B). We may bring this to the ~~notice~~ ^{notice} of the Commission.

DFA


[B.K.Dhal]
Under Secretary
30.6.2000

Dir(A) As desired by the Commission,
16 files have been photo copied and
reasons for destroying one file in 1969 have
been given. May please see, before letter is
forwarded to the Commission.

*DFA

JSCA

30/6/2000

Aravind
30/6

Dir(A)

(Amr)

12/8/00

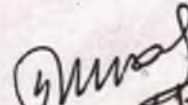
Fair letters are placed below for signature.

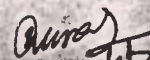
F.No. 23(11)/56-57-PM and

F.No. 2(64)/56-66-PM (Vol. II) may now
be transferred to NCO as they are Top Secret.
These may be sent to Mukherjee Commission
separately by NCO Section.

Dir(A)

has approved and
signed the letter.


A7/2000


A7

14161 DIR(A) W 1/1

* After downgradation
from Top Secret to Secret,
F.No. 2(64)/56-66-PM
(Vol. II) has been
returned back to Pol.
Section vide US(NCO)'s
Note dt. 02-4-02
(Copy at pg. 277/cor
of F.No. 16-16(4)/2000-
NCO).

Reference notes on p. 4/n.

The T.S. files referred to are sent along with photo-copies of the files for being forwarded to Mukherjee Commission. NGo may now take over the files.

NGo Section may take further necessary action and return this file to Political Section after keeping relevant extracts.

Amal
4/7/2010
US (PST).

NGo Section

As discussed with Dir (A) when US (PST) was also present, we may ask IB to concur to the downgradation of their two letters dated 12-6-63 and 16-11-63 sent by the then DIB to Shri K. Lann then PPs to PM. about one Shri K.K. Bhandari (believed to be Shri Subhas Chandra Bose), DFA is put up. About downgradation of our letter PPs shall be put up separately for orders of JS (4)

Amal
5/7/00
US (NGO)

Dir (A)
US (NGO) 5/7/00

Issued (p. 3/c)

Notes from page 1/N onwards may kindly be seen.

2. Two top secret files (File No. 2 (64)/56-66-PM (Vol. II) and No. 23 (11)/56-57-PM) which have been transferred to the NGO Section by the Political Section are placed below.

3. File No. 23(11)-56-57-PM deals with INA Treasure. The Treasure was taken over on 24th September, 1952 from Japan and consisted of some charred and broken pieces of jewellery. These were given to the National Museum. The then Prime Minister had stated on 9.1.1953 that this should be kept as it is and apart from everything else, it is some evidence of the aircraft accident and subsequent fire.

4. The file was categorised as Top Secret as it contains four CCB telegrams which originated from MEA and Indian Embassy in Tokyo in the year 1952. It is understood from Under Secretary (Political), PMO that the CCB Telegram cannot be downgraded but cannot be destroyed, when no longer required by following the described procedure. The Telegrams do not contain any information which can jeopardise the security of the nation or friendly relations with foreign countries.

5. In so far as File No. 2(64)/56-66-PM (Vol. II) is concerned, it contains papers relating to questions raised in the Parliament/ newspaper reports, besides the following top secret papers relating to Netaji Subhash Chandra Bose:-

- i) Letter dated 12.6.1963 from the then DIB to the then PPS to PM. (Flag F2 G)
- ii) Letter dated 7.9.1963 from the then PPS to PM to the then DIB. (Flag A)
- iii) Letter dated 11.11.1963 from the then PPS to PM addressed to the then DIG. (Flag B)
- iv) Letter dated 16.11.1963 from Shri B.N. Mullick, DIB, to the then PPS to PM. (Flag E)
- v) Letter dated 2.9.1964 from the then Prime Minister to Shri P.C. Sen, the then Chief Minister, West Bengal. (Flag C)
- vi) Letter dated 8.9.1964 from Shri Prafulla Chandra Sen, the then Chief Minister, West Bengal to Shri Lal Bahadur

Shastri, the then Prime Minister, acknowledging the receipt of letter written by the then Prime Minister to him on 2.9.1964. (Flag D)

4 p.3/c
6. The File also contains notes/orders by Shri Lal Bahadur Shastri, the then Prime Minister. In so far as the 2 letters received from the DIB are concerned, we have since requested the IB to agree to the downgradation of their 'top secret' letters to 'secret'. The downgradation of the letters written by the then PPS to PM can be done within the PMO under the powers delegated to JS(A), from 'top secret' to 'secret'. With regard to the letter of the then Chief Minister, West Bengal to the then Prime Minister, it would be very cumbersome to take up the issue with the West Bengal Government seeking their concurrence to downgrade the letter written by the former Chief Minister, way back in 1963. In any case, the letter does not reveal much and would not jeopardise either the national interests or relations between the Centre and the State, etc. the Commission can perhaps be requested to make use of the information contained therein, in camera, without publishing it in its report, as it is a top secret document.

7. In addition to the submissions made above, it may be mentioned that we have in the NGO Section, the following 'top secret' files relating to the controversy about Netaji's death and bringing his ashes to India from Japan;-

- i) File No. G-12 (18/94-NGO) ✓
- ii) File No. G-16 (3/95-NGO) ✓
- iii) File No. G-4 (2/95-NGO) ✓
- iv) File No. G-12 (3/98-NGO) ✓

8. The files contain papers received from the Cabinet Secretariat about the Agenda of the Cabinet, Note of the Cabinet drafted by the Ministry of Home Affairs, letter of the Home Minister, notes from MEA etc.

9. In view of the above, it is proposed that:-

A) JS(A) may kindly agree to the letters written by Shri N. Ram, the then PPS to PM dated 7.9.1963-Flag (A), reminder dated 11.11.1993-Flag (B) and letter dated 2.9.1964 from the then PM to the then Chief Minister, West Bengal-Flag (C) being downgraded from 'top secret' to 'secret'.

B) Action to downgrade the two letters of DIB may be taken once their consent have been received, and thereafter;

C) Photocopies of the following top secret files may be sent to the Commission, with the request that while information contained in the top secret papers may be made use of by the Commission, in camera, since these are classified as top secret papers, they may consider not publishing the same;-

- ✓ i) File No. 23 (11)/56-57-PM) ✓
- ✓ ii) File No. 2 (64/56-66-PM (Vol. II) ✓
- iii) File No. G-12(18)/94-NGO) ✓
- iv) File NO. G-16(3)/95-NGO) ✓
- (v) File No. G-4 (2)/95-NGO) ✓
- (vi) File No. G-12 (3)/98-NGO) ✓

[Signature]
06/07/2000

(P.S. Lally)

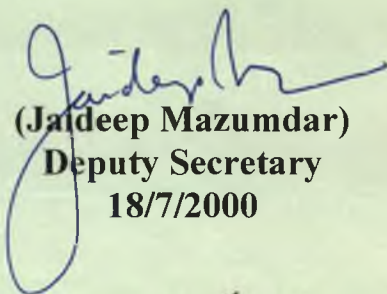
Under Secretary(NESC) (NGO)

Dir(A) The Justice Mukherjee Commission has 6.7.2000
asked for these top secret files/papers to be given to
them by 31.7.2000. Action to have certain IB reports
downgraded has already been taken, which
would be received very soon.
JS may agree to action indicated in
para 9 above, and on p. page. *Bar-jah 6/7*

JS (A) *JS (P)* had earlier dealt with the
matter - Army view?
JS (P) *11.7.2000*


Reference JS(A)'s query on pre-page.

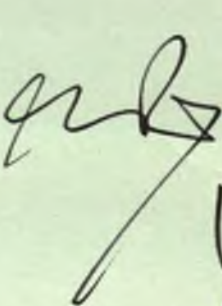
2. The course of action proposed may be approved. There appears not to be any ground for withholding any of the papers proposed to be passed on to the Justice Mukherjee Commission. The four "Top Secret" CCBs in File No. 23(11)/56-57-PM are quite innocuous and refer to the transfer of the INA "Treasure" from Tokyo to New Delhi. While it is not possible to downgrade Top Secret CCBs, there need be no objection to them being handed over to the Commission if they can help in any measure to set this controversy to rest.


(Jaldeep Mazumdar)
Deputy Secretary
18/7/2000

JS(P)

P. P. Sharma
18/7/00

~~JS/A~~



19/7/2000
We may have it forwarded to the Commission, early.
At 19/7

~~US (WGO)~~

Notes from page 6/N onwards may kindly

be perused.

2. We have since received the concurrence of the I.B. for the downgradation of their two 'top secret' files.

13/11/2000/TS/00
19/7

146/784/MTS/00
18/7

T-338/850/200
18/7/2000

-LTO

[from prepage]

letters to 'Secret', vide fr. These two letters have accordingly been downgraded.

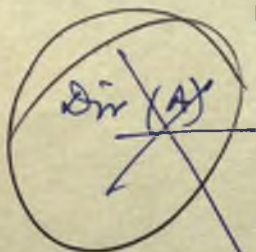
3. Vide paragraph 9(A) of my note (p.7/N), JS(A) was requested to kindly agree to downgrade letters originating from Pmo. It was also proposed, vide para 9(c) that 6 Top Secret files, listed therein, may be sent to the Commission.
4. Political Section have now transferred a number of 'Top Secret' files to NGo. One of the files (No. T-2(64)/78-PM) placed at Flag 'P', is on the subject, "Death of Netaji Subhas Chandra Bose - Appointment of an Inquiry Commission to go into the circumstances of death". The file contains nothing written the Pmo. It also has an unsigned extract of records from National Museum of India, giving details of INA Treasure, etc. A warning has been typed against divulging them, because such divulgence would attract provisions of "Official Secrets Act".
5. JS(P) has given 'no objection' to 4 'Top Secret' CCB Messages being made over to the Commission (p. 9/N).
6. JS(A) may now kindly:-

- (A) Agree to downgrade letters mentioned in para 9(A) of note at p.7/N from 'TS' to 'Secret'; and
- (B) Handing over of 7 files [6 files already mentioned at para 9(c) (p.8/N) plus one TS file No. T-2(64)/78-PM now transferred by Pol. Section to NGo, to the Commission, and
- (C) Downgrade notes in TS, F.No. T-2(64)/78-PM as 'Secret'.

[Signature]
(P.S. LALLY)
20.07.2000

[Signature]
20/7/2000

⊕ Flag ⊕



Internal

Notes on pre-pages may kindly be seen.

2. Justice Mukherjee Commission has sought papers/ files relating to Netaji Subhash Chandra Bose available in this Office. A list of such files had been given to the Commission. The Commission desires the files by 31st July, 2000.

3. It was seen that certain papers like the IB reports and CCB documents required to be downgraded. These documents have now been downgraded. JS may like to agree to:

- a. downgrading of the letters mentioned at para 9 (A) on page 7/N ante;
- b. [★] Another file maintained in the political section which was marked **Top Secret**, may also be allowed to be downgraded. The file contains Notings within the PMO and has an unsigned extract of record from National Museum of India.
- c. the handing over of all the 7 files, 6 containing CCBs/ IB reports already downgraded + 1 referred to at (b) above.

4. Once the above is agreed to, files would immediately be transferred to the Commission within the time-limit prescribed.

Archana Ranjan
(Archana Ranjan)
20.7.2000

JS (A)

JS (A)
us (A)
24/7

20/7/2000

We may now forward photocopies of the 7 files to the Commission by speed post. Fair letter is placed below pl.

24/07/00
US/1260

JS (A)
us (A)
24/7

24/7

19/TS/SPSC(A)/2000

Secret

Internal

Amalgamated
with main file

2/17

Subject: Request of the Justice Mukherjee Commission of Inquiry for making available Pmo Top Secret Files -.

May kindly see letter of the Commission at Flap 'A', requesting that further communication regarding our Top Secret files may be expedited. The Commission had set 21st July, 2000, as the outside limit for receiving our files.

2. In response to Dir (A)'s communication to IB on 4.7.2000, the IB have conveyed their concurrence to the downgradation of their two 'Top Secret' references, to 'Secret'.

3. The NGO file No. G-16(4)/2000-NGO, along with a few top secret files, was put up on 6.7.2000. So that JS(A) could downgrade Pmo references from 'Top Secret' to 'Secret' etc. The file is yet to be received back in the Section. As the time available with us is short, we may request JS(A) that decision in the matter may kindly be expedited.

Page
18.07.00
US/NGO)

Dir (A) Amalgamated 18/7

JS(A)

There is urgency about the matter. The file has been endorsed to you.

JS(A)

Copy sent

P.S.

9263/18.7.2000

H. amalgamate these pps with our NGO main file

933/5125/2000
प्र.मं.का. (एन.जा.मं.)/PMO (NGO)
डि.नं./Dy. No. 534/5/2000
दिनांक/Date 18-7-2000

J.S. (P)'s Office
Dy. No. 4064/M/W/O
Date 19/7/2000

193/Disc(A)/3/2000 18/7

19/7/2000
Dir(A) / N.H.O. 2/17

SE No. 7 (Receipt) pp 11-14/c

INTERNAL

FR may kindly be seen.

2. It appears from the proceedings of the Commission attached to the FR that the Commission have, while taking note of this Office letter dated 24.7.2000 wherein it was, inter alia, requested that "while information contained in the 'Top Secret' papers may be made use of by the Commission, in camera, since these are classified as 'Top Secret', they may kindly consider not publishing the same", directed this Office to 'adduce specific reasons as to why privilege is being claimed against the disclosure of the contents thereof, more so, when the Commission is holding a public enquiry and its report will be a public document and the contents of those files may have an important bearing.'

3. The Commission have further directed this Office to inform the Commission about destruction of files, etc., besides filing an Affidavit regarding availability of files/documents mentioned in para a(i) read with para (b) of Commission's order dated 23.3.2000 read with their order dated 13.6.2000.

4. In so far as claiming of privilege is concerned, provisions of Sections 123 and 124 of the Indian Evidence Act, 1872, provide as under:-

Section 123:-Evidence as to affairs of the State.- No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

Section 124.-Official communications.- No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interest would suffer by the disclosure.

5. Classified communications available on PMO files had originated from a number of Ministries like Ministries of External Affairs, Defence & Home, Cabinet Secretariat, Intelligence Bureau, National Museum of India, and Government of West Bengal. Two letters written by private persons were marked as 'Confidential' or 'Secret'. It does not seem desirable or practical to get in touch with private parties for getting their

pp-6-7/c

portion
sidelined 'X'
p. 12/c

portion
sidelined
'y' - p. 12/c

* Flag 'R'

Flagged
①

concurrence to get their communications declassified. In order to get the letter of the then CM, West Bengal, Shri P.C.Sen, declassified, before informing the Commission that this Office has no objection to its publication as a part of the Commission's Report, etc., we may write to Chief Secretary, West Bengal, accordingly, as per the draft placed below for consideration/approval. For getting the requisite information about the communications which originated from other Ministries/agencies mentioned in the preceding paragraph, we may write to them as well, as per the U.O. placed below. Since the Commission has been in touch with some of the Ministries/agencies mentioned above, it is quite possible that the concerned Ministries/agencies have already taken a view about the desirability or otherwise of declassifying their communications and allowing the Commission to use the same in any manner it wished to do. Regarding declassification of notes/correspondence within the PMO, appropriate orders would be solicited.

6. A copy of the Affidavit filed by Director (IS-I) MHA has been procured informally and is placed on the file. MHA are filing another Affidavit before the Commission, duly sworn by the concerned Joint Secretary. Affidavit to be filed by the PMO(JS-A) would be attempted after we get feedback from the concerned Ministries/agencies/Govt. of West Bengal, and a thorough search for the missing file(s) has been made by Pol. Section.

7. Submitted.

(P.S.Lally)

Under Secretary(NGO)

14.9.2000.

Director(A)

It is proposed to get the feed back regarding Top Secret / Secret / Confidential documents which originated in National Museum, IB, MHA, MEA, Lab Sect and NoD, so that appropriate reply / affidavit can be prepared for the Commission before its next sitting on 28/9/2000. CS, WB, has accordingly been informed. for approval, please. 14/9

JS(A)

15/9
USP/10

SENOS. 529 (JS/10)

pp 27-29/c

[from prepage]

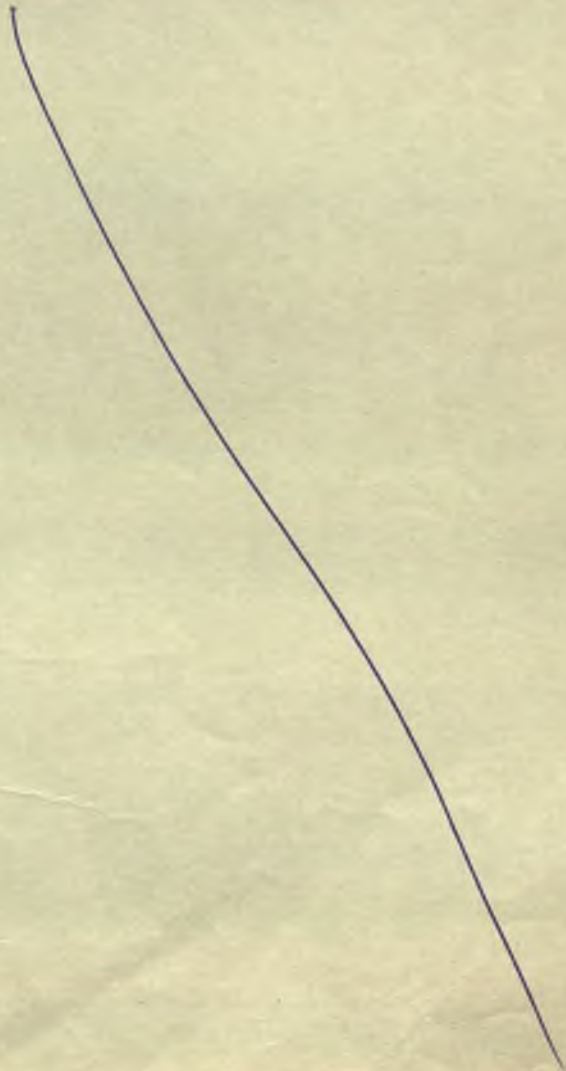
As discussed on 15.9.2000, Dir (A) would like to write to JS, MEA, as per the draft placed below for consideration/approval.

Suraj
18.09.2000
US/NGO

Dir (A) 19/9
US (NGO) 19/9

Sl no. 10 (Issue) p. 39 c

Sl no 11 (Receipt) p. 31/c



INTERNAL

May kindly see the notes from page 13/N onwards.

We have since received the reply from the National Museum, Ministry of Defence, Cabinet Secretariat and Ministry of External Affairs. These may please be seen at pages 31-34/C. The National Museum have stated that they would convey their decision to declassify the document pertaining to the Museum, in consultation with Department of Culture, Ministry of Culture & Tourism. The History Division of the Ministry of Defence have referred the matter to DGMI, AHQ for appropriate action in the matter. The Cabinet Secretariat have left the decision regarding declassification to the Ministry of Home Affairs. With regard to the stand of the Ministry of External Affairs, it may be mentioned that their no objection has been received to declassify the paper originating from that Ministry enclosed with our U.O. dated 14.9.2000, to 'confidential'. As to which of these may be made public, if any, that Ministry have left it to the discretion of the Commission. As regards the documents to be produced before the Commission by the Ministry of External Affairs, it has been indicated that they intend taking the same stand.

As the next date of hearing by Commission has been fixed as 26.9.2000, it appears unlikely that we would get the response from all the Ministries/Departments/Agencies addressed by us on 14/15.9.2000, to convey their views to declassify and make public the documents originating from their end. In any case, in their proceedings held on 31.8.2000, the Commission had passed directions not only to the PMO, but also to the Ministry of Home Affairs, the Ministry of External Affairs and the Government of West Bengal for production of documents/ filing of affidavit etc. If approved, we may write to the Ministry of Home Affairs, the Ministry of Defence, Intelligence Bureau, National Museum and Government of West Bengal to convey their stand in the matter to the Commission direct, under intimation to this office. A draft is placed below accordingly, for approval. With regard to the Ministries/Departments/Agencies/State Governments addressed separately by Pol. Section, a separate reference on same lines would be sent from Pol. Section file.

In so far as the classified notes/letters which were initiated in the Prime Minister's Office, it is for consideration whether we may take the stand, on the lines of the one taken by the Ministry of External Affairs, that our classified notes/letters etc. may be

+ p. 31/c
@ p. 32/c
S p. 33/c
* p. 34/c

L pp. 28-29/c

- ibid -

Flag 'S'

DFAS I 4 II

(R)

declassified as 'confidential' and we leave it to the discretion of the Commission to make them public, or convey that all our classified notes/correspondence has been declassified and there is no objection to making the same public.

Orders are solicited for the declassification of the notes/correspondence originating from Prime Minister's Office on our files as 'confidential', and to convey to the Commission that they may use their discretion to make all/ any of these documents public.

Draft of the Affidavit to be filed by the JS(A) before the Commission has been attempted and is placed below for approval. I have ascertained from the Ministry of Home Affairs on phone that the Affidavit could be typed on the plain paper. However, this would need to be got verified from Notary Public, before being sent the Commission.

(P.S.LALLY)
US(NGO)
20.9.2000.

Dir(A)

Notes above may pl be seen.
may please approve amended draft Affidavit, placed below. 'A' above also for approval, please
21/9

JS(A)

Draft of the Affidavit is with Dir(A).
Pl issue
21/9

US(NGO)

Recd back
22/9

21.9.2000
JS(A) has desired that Affidavit be signed by US(A)
21/9

Sl Nos. 15 & 16 (Issue)

pp. 35-37/C

Sl No. 17 (Receipt) - R
p. 38/C

In view of the decision at (R) prepage and our Uo dated 21.9.2000 at pp. 35-36/C,

[from prepage]

IB. may, perhaps, be advised to inform the Commission also about their decision, direct. We have already sent our Affidavit, signed by US(A), on Political Section File (No. 915/11/C/2/2000-Pol), to the Commission, by Speed Post. However, if IB have reservations, we may write to the Commission, as per fax letter placed below. It can be FAXED first, and then despatched by Speed Post.

not up.

© FAX NO. then
033-216-2765

Dir (J)

1/2
25/9/00
US/162

I've spoken to Shri P. Mehendra, Jt Director IB. He said that it may not be appropriate for IB to deal with the Commission directly.

Draft, as submitted below, for approval, pl

Tan
25.9.2000

JS(A)

25/9/2000

Pe issue

Pe issue

25/9

NG 25/9

Sero. 18 (Issue) p 39/2

34/TS/JS(A)/2000
2179

Serial NO 19 (Receipt) p. 55/c

In response to our U.O. dated 21.9.2000 (pages 35-36/c) Ministry of Defence have informed that DGM, the originator of document no. DM/5118/135(GS)(e) dated 07/10/1943, has intimated that the document could be treated as 'Unclassified'. MOD have further requested us to intimate this to the Commission.

2. I have spoken to Shri G.B. Singh, Director, MOD on telephone today, and after drawing his attention to (R) of page 16 N, and our U.O. dated 21.9.2000, requested him to inform the Commission accordingly, direct. The next date of hearing is on 28.9.2000.

3. To be on the safe side, we may also inform the Commission, by forwarding a copy of MOD letter, on fax. DFA

File
27.09.00
US(NGO)

Dir (RP)

JS(A)

Dir (RP)

27/9

27/9

US(NGO)

Sl. No. 20 (Issue) p. 56/c

Sl. No. 21 (Receipt) p. 57/c

May pl. see for information. Further action is to be taken by MHA.

Dir (RP)

US(NGO)

Sl. No. 22 (Receipt) p. 58/c

28/9

File
28/09/00
US(NGO)

36/TS/JS(A)/2000
27/9
19/Dir(RP)/TS/2K
27/9

Serial No. 23 (Receipt) p. 61/c R

✓ P. 28-29/10
+ P. 35-36/10
Ministry of Defence have asked us to confirm that our two V.O. references dated 14/5-9-2000 and 21-9-2000 respectively, which were classified as 'Top Secret' Can be downgraded as 'Unclassified' for their records and necessary action.

2. We had written to a number of Ministries/Departments to let us know whether the letters/communications which originated from their Ministries/Depts. can be declassified, for the purposes of publication, etc. by the Justice Mukherjee Commission of Inquiry appointed to enquire into the alleged disappearance of Netaji Subhash Chandra Bose. We are yet to get final response from the National Museum, and Ministry of Home Affairs, to our V.O. dated 21.9.2000.

3. A view may be taken for downgradation or declassification when we have heard from all the concerned Ministries/Dept. Govt. of West Bengal. Till then, the existing classification given to our two V.O.s mentioned above, may be retained.

Dis (R)

N. S. Lally
23/10/2000
(P.S. Lally)

I attended a meeting held in MHA on this subject today for taking on unanimous & unified stand on various issues before the Commission - MHA was of the view that there should be no contradiction amongst the various departments of GOI.

As regards our two V.O. notes dated 14/5-9-2000 & 21-9-2000 (P. 29/10 & 36/10) they may be declassified as we can't claim any privilege for doing so before the Commission.

It was also informed in the meeting that

37/13/2310/2000
4/10
By no. 23/15/Dis (R) P/M
4/10

the commission has ~~directed~~^{on 18/7/2000.} that affidavit
should be filed by an officer not below
the rank of JS and has asked PHO to
do so as the earlier affidavit was
filed by an Under Secretary.
Submitted Pl.

re.
4/10/2000

~~JS(A)~~
Dir(RP)

from D
R (1000)

~~US (NGO)~~
S/O/CO

Discussed with Dir(RP) today.
2. we may remind G/West
Bengal. Dfr.

16/10/00
PS Lally

~~Dir(RP)~~

24
16/10

US (NGO)

Govt. of West Bengal have conveyed
their no objection to declassification of TS.
letter of the then CM WB to PM. (p by/c).
Now, replies from MHA & National Museum
remain to be received. May like to
speak to Shri Patraudy Dir (IS) MHA &
Shri R. D. Choudhary, DG, National Museum

1876 1870
no 23/TS/Dir(RP)/m

Ph. No. 301-0000

3018159

on phone /RAX to expedite their response.
We are expected to file Affidavit from JS level by 15.11.2000, as per latest direction from The Commission (Hqs. are with Pol).

~~Div (A)~~

Both have assumed
early action
Pl put back on 6/11

Right
25/10/00
Vg/MG20

US (CAG)

30/7

Q
25/10

8/11/00

Resubmitted. The position remains the same as reported on 25.10.00 please.

Right
27/11/00
Vg/MG20

~~Div (A)~~

We've got some papers.
Pl examine

Q
6/11

US (CAG)

Div (A) has spoken to Shri Jayant Bhasar, JS (CAR) MEA on phone regarding their Vg no. 2574/MG20 Vol. V, dated 19.10.2000 (p. 34/c). Shri Jayant clarified that for the word "declassified" figuring in line 2 of para 2 of their Vg, dated 19.10.2000, the word "downgraded" may be substituted.

Right
27/11/00
Vg/MG20

Poor
7/11

Internal

✓ pp. 1-2/c
② Flagged.
+ pp. 35 to 37/c
&
40-45/c

In response to the directions of the Justice Mukherjee Commission of Inquiry set up to enquire into the disappearance of Netaji Subhash Chandra Bose, Political Section and NGO Section had sent copies of a number of Secret/ Top Secret files to the Commission. An Affidavit was also filed on behalf of PMO, by US(A). The Secret/Top Secret files, copies of which were sent to the Commission contained classified references which originated from Ministries of Home, External Affairs, Urban Development, I&B, Defence, Department of Economic Affairs, Department of Food and Public Distribution, Cabinet Secretariat, Intelligence Bureau, National Museum, and State Governments of Orissa & West Bengal, etc. Since as per the extant orders, concurrence of the originating Department is necessary to downgrade/ declassify any document, references were made to the above mentioned Ministries/ Departments, State Governments, Agencies to convey their concurrence to declassify the documents which had originated from their side. Copies of the relevant documents were also sent along with our reference.

≠ p. 17/c

2. In so far as classified notings/ papers which had originated on PMO files in this Office are concerned, a view was taken with the approval of JS(A) that all such notings/papers may be treated as 'declassified' as 'confidential', and the Commission may be informed that it has the discretion to make the same public. The same view was conveyed to the Commission in the Affidavit filed by US(A) before the Commission, last month.

3. In response to this Office communications to various Ministries/Departments/Agencies, we have received comments/views from most of them, which are detailed below:-

Δ p. 34/c

1. Ministry of External Affairs: No objection to the documents sent to them being 'downgraded' to confidential. As to which of these may be made public, if any, the MEA have left it to the discretion of the Commission. As regards documents being produced before the Commission by the MEA, they intend to take the same stand.

② pp. 66-121/c

2. Ministry of Home Affairs: The Ministry has agreed to declassify 15 of the 20 documents sent to them. For the remaining 5 documents, the Ministry feels that these may continue to be treated as classified. One of the references is a copy of Cabinet Secretariat U.O. dated 26.9.2000 addressed to MHA and a copy endorsed to this Office. We have not sent a copy of this letter to the Commission since this correspondence originated on a reference made by PMO regarding declassification of Cabinet Secretariat's earlier references.

(MHA have, however, not specifically given any advice/views on Cabinet Secretariat's U.O. dated 26.9.2000, in which MHA were requested to take a view regarding downgradation of MHA's O.M.No.1/12014/27/93-IS(D.III) dated 17.5.94 and background Note of the same number dated 2.2.94 and give gradation to Cabinet Secretariat's No.89/2/1/94-TS dated 22.7.94.)

pp. 55/c

3. Ministry of Defence: While drawing attention to this Office references, MOD have confirmed that their reference can be downgraded to unclassified.

p. 38/c

4. Intelligence Bureau: No objection from the security angle to their documents being declassified.

pp. 64-65 cl
sens. 36
(L.F. no. 905/11/C/2/2000-
Poc)

* p. 57/c

L.F. no 905/11/C/2/2000
Poc.

p. 122/c

☉ p. 22/N

✱ (L.F.)

⊙ Flag (X)

⊗ Flag '2'

5. Government of West Bengal: No objection to declassification of the correspondence made by the State Government with PMO.

6. Cabinet Secretariat: Since papers had been sent by MHA with classifications, whatever gradings MHA were to give with regard to MHA documents, identical grading would be given to Cabinet Secretariat papers.

7. Ministry of I&B: No objection to their references being declassified.

SR no. 28

8. Ministry of Urban Development: - do -

SR no. 27

9. Department of Food & Public Distribution: - do -

SR no. 37

10. Department of Economic Affairs: - No clearcut answer has been given regarding declassification of the reference.

SR no 29

11. Government of Orissa: Reply received. Orissa Government have no objection if the Commission makes the correspondence public.

SR no 41

12. National Museum: As advised by the Department of Culture, the Museum has taken up the matter with MHA to inform them whether the Treasure could be shown to the Commission. Final reply from the National Museum is still awaited.

The documents which had originated from MHA, and which the MHA feels should continue to be classified, have been flagged. Earlier we had taken the stand, on the lines of the stand taken by the MEA that the notings/ correspondence which had originated from the PMO may be treated as declassified to confidential, and left it to the discretion of the Commission to make all/ any of these documents, public. Subsequently, on 6.11.2000, a clarification was sought, on phone, by Director(A) from Shri Jayant Prasad, JS(CNV)MEA about the word 'declassified' used in second line of MEA U.O.No.25/4/NGO Vol.V dated 19.9.2000(p.34/c). JS,MEA clarified that the intention was to use the word 'downgraded' instead of the word 'declassified' and that this may be read accordingly. In view of this, we shall have to use the same expression with regard to our own notings/ documents, except those which relate to the five classified documents which had originated from MHA. The relevant notes portion on our files, which relate to the still classified documents of MHA, have also been flagged.

\$

The Commission have, in their latest directions, reiterated their earlier directions with regard to filing of Affidavit by a JS from PMO by 15.11.2000, covering various points intimated earlier to PMO. A copy of the Affidavit dated to be filed by the Home Secretary, as Head of the Department, has been procured informally from MHA. Under sections 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, only Head of the Department can claim privilege if certain documents/papers are not to be made public. A copy of the order issued by Administration Section, declaring the Head of the Department, is placed below.

In view of the above, orders are solicited as to whether we may file the affidavit, on the lines mentioned below, or seek 15 days' time from the Commission to tie up loose ends in consultation with MHA/MEA etc. and then file the Affidavit, ensuring that there is no conflict in the stand taken in the MHA/MEA, etc in respect of various documents, before the Commission:-

(a) That the Affidavit, duly signed by the Head of the Department

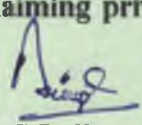
claiming privilege may be sent to the Commission, informing that all the notes/correspondence which had originated from this Office, barring the 4 out of the 5 references(the last reference dated 18.9.2000 is of recent origin and we need not include this in the list of privileged documents being sent the Commission although it may continue to be classified) mentioned in Annexure II to the Affidavit, may be treated as 'downgraded' to 'confidential' and that the Commission may exercise its discretion to make public any/ all of such documents;

- (b) With regard to the 4 documents listed in Annexure II to the Affidavit, it may be mentioned in the Affidavit that the originating Ministry. i.e. Ministry of Home Affairs, is claiming privilege in respect of the files containing the above documents separately.
- (c) Further, since MHA have not given any decision about downgradation /declassification of their two documents, mentioned by the Cabinet Secretariat in their U.O. dated 26.9.2000, Therefore, it has not been possible to take a view with regard to Cabinet Secretariat's documents (1) Cabinet meeting Notice No.6/CM/95(iii) dated 6.2.95(2) Record Note of discussion of the meeting held on 20.7.1994 regarding 'Controversy about Netaji's death and allegations that he was a an MI-6 agent ' and (3) Cabinet Secretariat U.O.No.13/CM/70 dated 24.2.1970 forwarding Cabinet note on 'Fresh inquiry into disappearance of Netaji Subhas Chandra Bose in 1945- Demand for ',received from MHA. As soon as the views of MHA are received, this Office shall inform the Commission accordingly. Clarifications on a few more documents have been sought recently. Comments/views of MHA are awaited.
- (d) Keeping in view the stand of the MHA with regard to the remaining 4 documents mentioned in Annexure II to the Affidavit, we in the PMO shall have to claim privilege in respect of notings on files (page numbers to be specifically mentioned), since by the disclosure of the contents of the notings, which are based on MHA communications, which are still classified, public interest would suffer. The language may be borrowed from the Home Secretary's affidavit.
- (e) With regard to notes on PMO File No.G.12(18)/94-NGO, which relate to Cabinet Secretariat's record of discussions held on 20.7.94, we may inform the Commission that we shall let them know about our decision/ views after hearing from MHA;
- (f) Since final replies from the MHA (in respect of documents mentioned at (c) and (e) above), Department of Expenditure and the National Museum are yet to be received, we need not wait indefinitely for their responses, and truthfully mention these facts to the Commission, mentioning at the same time that as and when the replies from these defaulting Departments are received, the Commission would be informed, suitably.

Draft of the Affidavit, which has been prepared in consultation with US(Pol), is placed below. Now, we are faced with a situation where on the one hand, the Commission has directed that the Affidavit should be sent over the signatures of an officer not below the rank of Joint Secretary, while on the other hand, the

provisions of the Evidence Act empower only the Head of the Department, i.e., Director in the PMO, to claim privilege.

In case it is decided not to seek 15 days' time, then, perhaps a clarification may be sought telephonically from the Commission that they would accept the affidavit signed by Director, and whether two separate Affidavits would need to be submitted, one on issues other than those documents in respect of privilege is being claimed, and one by the Head of the Department claiming privilege under the Evidence Act.


(P.S. Lally)
13.11.2000.

Director(A)



Internal

In its last meeting on 28.9.2000, Justice Mukherjee Commission had directed PMO to submit an affidavit signed by an Officer not below the rank of Joint Secretary, as earlier affidavit was signed by the Under Secretary(A). The Commission has not taken cognisance of the earlier affidavit.

2. The affidavit to be filed would consist of details of files/documents maintained in this office, concerned with the issues before the Commission. Since some of the documents originated from the other offices, it was decided that we would seek the views of the originating authorities on those papers. Most offices have written to us, intimating their stand, which we will communicate to the Commission. We have not heard from the DG, National Museum, and we would intimate the Commission accordingly. MHA has sent a copy of their affidavit only today which shows that they are claiming privilege on certain documents. On discussion with Ms. Gairola, Joint Secretary, MHA, it has been learnt that MHA has claimed privilege on letters relating to the security provided by the Japanese Government at the Renkoji Temple where the ashes of Netaji are kept. They would also be seeking privilege on documents relating to the daughter of Netaji Subhash Chandra Bose. She also intimated that papers relating to allegations regarding his being an MI-6 Agent should also not to be made public.

3. Since we would now be claiming privilege on our documents on the above three issues, in conformity with the MHA stand, we would require the approval of the Secretary, before claiming privilege. It may be desirable to consult the lawyer of MHA also once it is decided to claim privilege on these documents.

4. We may, if approved, seek a further period of two weeks from the Commission to enable us to prepare the affidavit stating the above facts and claiming privilege.

Archana Rajan
(Archana Rajan)
13/11/2000

~~JS(A)~~

US (NGO)

DFA pl.

Sri (A)

14/11

US (NGO)

copy of letter sent to Comptroller
related to file. (P. 125/1)

14/11

Two copies, with Del. file,

Sent to Secy. Secy. for issue,

14/11

19/DIR(A)/TS/14/11/00.

[From prepage]

As mentioned at (c) & (e) of page 257N,
advice of MHA in respect of some
documents, especially those mentioned in
Cabinet Secretariat's L.O. dated 26.9.2000
(p. 57/e) is still awaited. We may write
to MHA to expedite their advice.

DFA please.

Surge
P.S. Kelly 14.X.00

Dir (A) Q
14/11

US (NGO) 16/11

We may write to Br Sect, Cal, for
appointing a counsel to represent us before the Cn.

US (NGO)

Q
20/11

DFA please.

Dir (A)

US (NGO)
20/11

Pl despatch. We
can discuss ton. (and
review) at 11:30 a.m. May also attend.

Surge
US (NGO) 20/11/00
Q 20/11

24/Dir(A)/25/00
14/X/00

INTERNAL

+ Folder - Flag 2'

= Flag 'A'

@ pages 6-7/c

-ibid-

In response to the letters/directions issued by Justice Mukherjee Commission appointed to enquire into the alleged disappearance of Netaji Subash Chandra Bose, we have sent photocopies of 23 Secret/Confidential/ Non-Secret and 7[@] Top Secret files to the Commission, so far. While forwarding photocopies of the Top Secret files to the Commission on 24th July, 2000, we had requested the Commission that while information contained in the Top Secret papers may be made use of by the Commission, in camera, since these are classified as Top Secret, they may kindly consider not publishing the same. No such mention was made while forwarding photocopies to the Commission from the Political Section.

2. The Commission, in its proceedings dated 31st August, 2000, gave the following directions to the Prime Minister's Office:-

i) while sending photocopies of seven files marked as 'Top Secret/Secret' with a forwarding letter No.G-16(4)/2000-NGO dated July 24, 2000 (also marked 'Top Secret/Secret') addressed to the Secretary of the Commission, a Director of the Prime Minister's Office, South Block, New Delhi has made the following request:

"It is further requested that while information contained in the 'Top Secret' papers may be made use of by the Commission, in camera, since these are classified as 'Top Secret', they may kindly consider not publishing the same."

Viewed in that context, the above office/secretariat is directed to adduce specific reasons as to why privilege is being claimed against the disclosure of the contents thereof, more so, when the Commission is holding a public enquiry and its report will be a public document and the contents of those files may have an important bearing.

ii) The above office will let this Commission know whether any of the files/records relevant to the terms of reference of this Commission has been destroyed and, if so, details thereof and why, when and where they were destroyed and whether copies of the documents contained therein have been kept or maintained.

= pp 11-14/c

\$/ Folder at
Flag 2

iii) In spite of directions contained in paragraph a(I) read with paragraph (b) of the order of this Commission dated March 23, 2000 read with the order dated June 13, 2000, the above office/Secretariat has not filed any affidavit regarding the availability of files/documents mentioned in the aforesaid paragraph a(I).

pp 50-54/c
△ Folder (Flag 2)

3. It may be clarified here that an affidavit was in fact sent to the Commission, over the signatures of US(A). However, the Commission in its proceedings dated 28.9.2000, inter alia, observed as follows:-

"a) Even though in paragraph E of the order dated August 31, 2000 there was an express direction that all informations to be furnished in terms thereof must be supported by affidavit of a competent officer not below the rank of a Joint Secretary to the Government of India, the Prime Minister's Office has sent an affidavit sworn by an Under Secretary of that office in purported compliance of paragraph A of the said order. The Commission therefore does not take any notice of the contents thereof; and calls upon the said office once more to strictly comply with the orders/ directions issued on August 31, 2000."

Ⓚ pp. 27 to 29/c
pp 40-49/c

4. Most of PMO files contain classified correspondence originating from other Ministries/Departments/State Governments. As per the extant orders, prior to downgradation/declassification of a classified paper, concurrence of the concerned Ministries/Departments/Agencies from where such classified paper originated is essential. We had accordingly forwarded photocopies of the correspondence to the Ministries of Home Affairs, External Affairs, Defence, Urban Development, Information and Broadcasting, the Cabinet Secretariat, Intelligence Bureau, Department of Food and Public Distribution, Department of Economic Affairs, the National Museum and the State Governments of Orissa and West Bengal with the request that their views/comments for declassification of the papers may be conveyed to PMO.

pp 34/c

5. The Ministry of External Affairs have already conveyed to us that the correspondence of that Ministry available in our files, copies of which were sent to them may be down-graded to confidential and that it is left to the discretion to the Commission to make public any/all documents. The Ministry of Defence, Intelligence Bureau, ~~Government of West Bengal~~, Ministry of I&B, Ministry of Urban Development, the Department of Food and Public Distribution and Government of West Bengal have agreed to declassify the papers relating to them on our files. With regard to the Ministry of Home Affairs, barring 5 documents, listed in the I.D. Note dated 3rd November, 2000 (page 66/C) that Ministry has agreed to

++ Lr. No. 9151/c/2/
2000-01-16 (16.1.2000)
// pp. 26/c

pp 57/c
L p. 64-65/c

declassify the rest of the papers which had originated from their side. With respect to 4 of these 5 documents, privilege is to be claimed from the Commission. The fifth reference is a U.O. dated 18.9.2000 Cabinet Secretariat to MHA regarding declassification of records and is of recent origin. We need not include this in the list of documents for which we are claiming privilege. Similarly, PMO shall have to claim privilege with respect to the notes on the PMO files relating to these 4 documents.

6. In so far as the Cabinet Secretariat are concerned, they have left the decision to MHA by stating that the classification by the Cabinet Secretariat was based on the classification given on the papers forwarded to them by MHA and that whatever grading the MHA give to their documents, the same may be assigned to the Cabinet Secretariat papers. Reply of the MHA on this is still awaited. The reply sent by the Government of Orissa is ambiguous. Clarification sought from the State Government, despite repeated telephonic and written reminders, it is not forthcoming. With regard to the Department of Economic Affairs, it has informed that their file was not traceable and hence it was not possible to offer their views/ comments. Another reference has been made to that Department that in the absence of their file they should take the view on the basis of the photocopy of the document already forwarded to them. Their reply is awaited.

7. The only other defaulting agency is the National Museum. They are beating about the bush and seeking views of various departments like Department of Culture, Ministry of Home Affairs and now MEA with regard to declassification of the documents forwarded to them, rather than taking the view themselves.

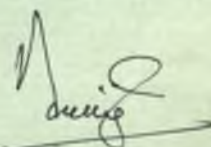
8. Due to the reasons assigned above, we had to seek extension of time of 15 days from 15.11.2000 so that we can file our affidavit before the Commission.

9. In the Affidavit file by US(A) on 22nd September, 2000 (pages 50-54/C), the position regarding (i) destruction of file No.12(226)/56-PM which contained Agenda Paper/Cabinet decision regarding "Investigation into the circumstances leading to the death of Shri Subash Chandra Bose", (ii) position regarding destruction of some papers from our file No.23(156)/51-PM, (iii) missing file No.2(381)/60-66, dealing with the "Proposal to bring Shri Subash Chandra Bose's ashes from Tokyo and to put a memorial to him in front of the Red Fort of Delhi", and (iv) missing file No.2(364)66-70-PM (Vol.VI) regarding "Death of Netaji Subash Chandra Bose and appointment of an Enquiry Committee to go into the circumstances of death" was clarified. The same position is being reiterated in the draft Affidavit placed below.

DD p 126/c
10. In the meantime, as decided at page 27/N, we had written to the Department of Legal Affairs, Branch Secretariat, Calcutta to nominate a Counsel, preferably the one nominated for the MHA, to represent this office. Before a reply could be received from Branch Secretariat (Ministry of Law), Calcutta, Shri Tarakeswar Pal, Advocate, Senior Counsel-I, Calcutta, who has been assigned to assist the Ministry of Home Affairs and Ministry of External Affairs met Director (A), PMO on 21st November, 2000. Vakalatnama duly signed by JS(A) was handed over to him. The Counsel, while drawing attention to the directions of the Commission dated 31.8.2000(p14/c), advised that in case the PMO has no witness to examine, on its behalf before the Commission at the stage, a certificate, duly signed by a Joint Secretary may be given to him. A certificate has accordingly been typed on PMO letterhead, on the lines of the one given by MEA, (p.21/C) for signatures of JS(J).

Placed in Folder at P
11. It has already been decided, with the approval of JS(A) at p.27/N that approval of Secretary to PM may be solicited for claiming privilege in respect of the documents which the MHA wants to remain classified, and the relevant notes available on PMO files. Such documents/notes portions have been duly flagged. The statement at Flag 'X' gives complete picture regarding various classified papers on PMO TS files, i.e., earlier classification, status after receiving replies from various Ministries/ Departments/State Govt. of West Bengal, action pending with regard to declassification, items in respect privilege is to be claimed, etc.

12. Draft of Affidavit to be filed before the Commission has been attempted and is placed below for approval. If any information is received before it is filed before the Commission, it would be incorporated accordingly. In the Affidavit it is being certified that barring the Notes portion/correspondence with respect to which privilege is being claimed, vide Annexures at I & IA attached to the Affidavit, all other classified papers/notes which had originated from PMO files may be treated as confidential, but the Commission may use its discretion to publish any/all such notes/correspondence as it deems fit, to which we would have no objection.


24/11/00

(P.S. Lally)

Under Secretary (NGO)

Director (A)

Internal

This Office has sent photocopies of documents related to the alleged disappearance of Netaji Subhash Chandra Bose to Justice Mukherjee Commission, appointed to enquire into the issue. The Commission had inter alia, given directions enjoining on us to submit an affidavit, detailing relevant facts, signed by an officer not below the rank of Joint Secretary to the Government of India.

2. In pursuance to the directions a draft Affidavit has been attempted and is placed below. Most of the PMO files contain classified correspondence originating from other Ministries/State Governments. In order to get concurrence of the concerned organisations for their downgradation/declassification, photocopies were sent to them with the request that their comments regarding declassification may be conveyed expeditiously. Except for National Museum and Government of Orissa, who gave an ambiguous reply, all other Organisations have conveyed their comments. A clear reply from Cabinet Secretariat is also awaited. MHA has declassified all the documents originating from them except for five documents on four of which privilege has been claimed by MHA. PMO shall have to claim such privilege on documents on the same issue maintained in this office. MHA had engaged a Counsel through the Branch Secretariat, Ministry of Law, Calcutta. On their advice we have engaged the same Counsel to whom the draft Affidavit, after Secretary's approval, would be sent for vetting. As advised by the Counsel, we would also be intimating the Commission that we have no witnesses for examination of the Commission. A certificate stating this fact has also been prepared and is placed below at F/R. Draft Affidavit to be filed before the Commission would be reviewed and any information received subsequently, before the Affidavit is filed, would be incorporated suitably. In the Affidavit, it is being certified that barring the Notes portion/correspondence with respect to which privilege has been claimed, vide Annexures I & IA attached to the Affidavit, all other classified papers/notes which had originated from the PMO files may be treated as Confidential, and the Commission may use its discretion to publish any/all, as it deems fit.

Contd.

3. Accordingly, Draft Affidavit placed below may please be approved. Secretary may also please grant approval to the proposal regarding claiming privilege in respect of papers related to the documents which the MHA has indicated must remain classified, available in PMO files.

Archana
(Archana Ranjan)
27/11/2000

JS(A)

[Signature]

[Signature]

[Signature]
27/11/00

n. k. Gupta
28.11.00.

JS(A)

JS(J)

JS(J) has signed the Affidavit, ~~the~~ subsequently.

A
29/11

Most Urgent

M/Law (Dept. of Legal Affairs) may pl.
vet the draft of the Affidavit.

1
28.11.00
(87 NE)

(विधि कार्य विभाग)
(Dept. of Legal Affairs)
सं. 22697/00 Adv. (B) MOWAN. 5.16(4)/2000-Now dt 28.11.2000
सं. 22697/00 Adv. (B) MOWAN. 5.16(4)/2000-Now dt 28.11.2000
सं. 22697/00 Adv. (B) MOWAN. 5.16(4)/2000-Now dt 28.11.2000

विधि मंत्रालय में सूचित हुआ
Notes in the Ministry of Law
विधि कार्य विभाग
Department of Legal Affairs
सलाह (ब) अनुभाग
Advice (B) Section

Perused the draft affidavit proposed to be filed
before the Honble Justice Moolchand Commission of
Enquiry at Calcutta to claim privilege v/s 123 and
124 of the Evidence Act in respect of documents
detained in Annexure 1 and 1A to the draft Affidavit.
It is noted that the approval of the Head of
the Deptt. has been obtained to claim the
privilege. The draft affidavit subject to verification
of facts stated therein seems to be formally
in order.

Ja'
29/11/2000

(ABDUL AZIZ)
SLP

Tel. 338-4836

D/MD

U.O. NO. 22697/2000 Adv. (B) Sec. dt 29/11/00

[From prepage]

Keeping in view the fact that 15 days' extension sought from the Commission on 14.11.2K was expiring on 30.11.00, I was directed to go to Calcutta by air in the evening of 29th November, 2000 to file the Affidavit on behalf of P.M.O. I accordingly went to Calcutta by 6.30 pm Indian Airlines flight, and after filing the Affidavit on 30.11.00, returned to Delhi. Expost facto approval of Sery to P.M. would be required for the air journeys.

2. Our Central Govt. Counsel at Calcutta, who perused the Affidavit, before it was filed, expressed satisfaction that it was alright. He, however, desired that we should make another attempt to trace some record, which may show that Pol. Section files/papers were destroyed, after following the prescribed procedure, as per instructions/Rules. He also wanted to have relevant extracts of instructions on the subject (Manual of Office Procedure).

3. In so far as Nbo Section is concerned, we have received replies from all Ministries/Depths./Agencies who were consulted for declassification of their records ~~except~~ the National Museum. The Museum has after consulting MHA & MEA, now taken up the matter with the Dept. of Culture (pp. 146-150/c). JS(A) may like to write to Secy, Dept. of Culture to expedite decision. DFA. Pol. Section will issue such reminders to D/Co. Affairs & G/Onsra from their file separately.

Dir (A) Notes above may pl. be seen. 06.12.00
efforts to get DG (Museum) to expedite P. S. Lelly
his reply have not been successful.
JS(A) may kindly approve draft placed below.

JS(A)

has seen

Dir (A)

US (1040)
11/12

Anarjan
7/12

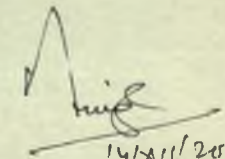
42/TS/JS(A)/2580
7/12
26/Dir(A)/TS/2000
7/12

From pre page

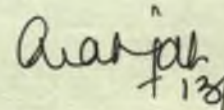
No response has been received to D.O. letter dated 7th December, 2000 sent by Director (A) to the Secretary, Department of Culture. As directed by Director (A), I had also met Ms. Humera Ahmed, Director, Department of Culture on 11th December, 2000, and explained the rules position regarding down gradation/declassification of classified record. I also requested her to expedite decision. Director (A) may like to remind Ms. Ahmed telephonically to expedite decision.

The Justice Mukherjee Commission of Inquiry have forwarded a copy of the proceedings dated 23.11.2000 of the Commission and same are available at pages 168 to 173/C. In the proceedings, the Commission have allowed time of 10.12.2000, to file the Affidavit by this Office. It may, however, be mentioned that an Affidavit has already been filed with the Commission on 30th November, 2000. +

Shri Animesh Majumdar, Jr. Government Counsel, Calcutta, has sent a fax message dated 8th December, 2000 (page 170/C) requesting that relevant/orders/law as to allocation of PMO matters of dealing may be sent to them in connection with the hearing of privilege claimed by this Office, fixed by the Commission on 22nd December, 2000. If approved, we may send extracts on Record Management from the Manual of Office Procedure, and Allocation of Business Rules relating to the Prime Minister's Office. Separately, I have requested my colleague US(Pol), to try and trace out the actual classification ('A', 'B' or 'C') given to the Pol. files which are missing, and also a copy of any note initiated on which orders of the competent authority was obtained before destruction of the Pol. files. That information would be kept ready in case it is required by our Counsel at Calcutta or by the Commission. Due to postal strike, it would not be possible to send the papers by post. The extracts would be sent through fax.


14/11/2000
(P.S. Lally)
Under Secretary (NGO)
13.12.2000

Director (A) Approved.


+ 13/12
As no reply has been received,
JS(5) may like to write to Secy, Culture.
DFA.
Fair DO signed by JS(5) + signed.
(Page 185/C) 14/11/00

Internal

The Justice Mukherjee Commission of Inquiry has been set up to probe into the alleged death/disappearance of Netaji Subhash Chandra Bose. As directed by the Commission, all documents maintained in this Office on the subject, were forwarded to the Commission, at Calcutta. The Commission had then directed that an affidavit detailing relevant facts, signed by an officer not below the rank of Joint Secretary to the Government of India, be submitted to them.

2. In pursuance to these directions, an Affidavit was filed in the Office of the Commission of Inquiry, after getting it duly vetted by the Ministry of Law and the Counsel engaged by us for the purpose.

3. Most of the PMO files contained classified correspondence originating in other Ministries/State Governments. In order to get concurrence of the concerned organisations for their down gradation/declassification, photocopies were sent to them with the request that comments regarding declassification may be conveyed expeditiously. Except for the National Museum and Government of Orissa, who gave an ambiguous reply, all other organisations have conveyed their comments. A clear reply from Cabinet Secretariat is also awaited. MHA has declassified all the documents originating from them except for five documents, on four of which privilege has been claimed by them. These documents relate to the following subject:

- (1) Controversies regarding Netaji's death and bringing his ashes to India from Japan;
- (2) Identity of Mrs. Anita Pfaff, daughter of Netaji Subhash Chandra Bose.

4. Since the MHA has claimed privilege on papers/documents relating to the above issues, those papers and the notes portion dealing with them available on PMO files have also been treated as classified. Privilege has been claimed with the approval of the Secretary. Apart from the notes portion/correspondence with respect to which privilege has been claimed by this Office, the Commission has been informed, all other classified papers/notes may be treated as Confidential, and Commission may use its discretion to publish any/or all, as it deems fit. The Commission has also

been informed that this Office would intimate to them our views regarding documents which originated in other organisations, as mentioned in paragraph 3 above, on hearing from those organisations.

5. The next hearing of the Commission is on 22nd December, 2000.

6. For information, please.

Archan
(Archana Kanjan)
19/12/2000

JS(A)

Please discuss.

~~Dir~~ (A) Discussed. Re link
with files on which privilege
has been claimed. Also with Pol. files
on the subject.

JS
19/12

JS(A) -

Archan
20/12

Placed below, sir.

Archan
20/12

JS(J)

Seen. Thanks.

JS
21/12

Recd. back
only New files.
① G-16(4)/2000-NAS
② T-2(64)/78-PH
③ G-16(3)/95-NAS
④ G-12(18)/94-NAS
Dir (A)
JS(A)
6/10/01

JS
1/1

78/JS/SS(5)/2
19/12
27/DIR(A)/19/12/00

40-

Most Immediate

Prime Minister's Office

Justice Mukherjee Commission of Inquiry has been appointed to enquire into the alleged disappearance of Netaji Subash Chandra Bose. The Commission had, inter-alia, directed that all information to be furnished in terms of the orders/directions to the Commission must be supported by an affidavit of Competent Officers, not below the rank of a Joint Secretary to the Government of India.

2. This Office made available photocopies of all the files, including classified files, to the Commission. The files with the Prime Minister's Office contained classified letters written by various Ministries/Departments/State Governments. The Ministry of Home Affairs, who were consulted in the matter, advised this Office not to declassify some of their letters, available on the PMO files. That Ministry also claimed privilege in respect of the two files, through an affidavit signed by the Home Secretary as Head of Office. Consequently, this Office also claimed privilege, by an affidavit filed by Joint Secretary in the Prime Minister's Office in respect of the classified MHA papers, available on the PMO files. Under Sections 123 - 124 of the Evidence Act privilege has to be claimed by the 'Head of Department'.

3. Under Section 3 (d) of Delegation of Financial Powers Rules, 1978, "Department of the Central Government" means 'a Ministry or a Department of the Central Government as notified from time to time and includes the Planning Commission, the Department of parliamentary Affairs, the President's Secretariat, the Vice-President's Secretariat, the Cabinet Secretariat and the Prime Minister's Office.'

Under Section 3. (f) of the Delegation of Financial Powers Rules, 1978, "Head of the Department" in relation to an office or offices under his administrative control, means an authority specified in Schedule I and includes such other authority or person as the concerned Department in the Central Government may, by order, specify, as a Head of the Department.'

'Provided that such a person is the Head of an identifiable organisation and the minimum of this revised scale of pay is not lower than that of a Deputy Secretary to the Government of India.'

4. In terms of the above rules, Smt. Archana Ranjan, Director in this Office was declared as Head of the Department in respect of this Office for the purposes of Rule 3 of the Delegation of Financial Powers Rules, 1978 and other Financial Rules w.e.f. 14-8-1998, until further orders. The Affidavit filed by Joint Secretary to PM before the Commission had

Flag 'A'

By way of
abundant
caution
@Flap B

the approval both of the designated Head of Department and Secretary to PM. In the affidavit, filed before the Commission on 30th November, 2000, it was specifically mentioned in para 7 of the affidavit that permission to withhold to produce the said records or the disclosures of the contents or to give any evidence derived from the papers in respect of which the privilege was being claimed, had the approval of the Head of Department. As mentioned above, the Head of the Department, duly declared by this Office, is Smt. Archana Ranjan, Director, who is junior to Joint Secretary to PM. However, our Government Counsel at Calcutta informed us verbally that during the hearing on 22.12.2000, the Hon'ble Mr. Justice Mukherjee had observed that the affidavit claiming privilege ought to have been signed by an officer of the rank of Secretary to Government of India. As has already been explained above, the affidavit claiming privilege and furnishing other information was sent over the signatures of Joint Secretary to PM, keeping in view the directions of the Commission that all information is to be furnished at least by an officer of the rank of Joint Secretary to Government of India.

Handwritten marks: a large 'X' and a heart symbol.

5. In view of the above, observation made by Mr. Justice Mukherjee advice of Ministry of Law is solicited as to whether another affidavit would require to be filed before the Commission over the signatures of the 'Head of Department' as per the orders issued by PMO in September, 1998, i.e. by Smt. Archana Ranjan, Director, or it would be necessary/advisable/ mandatory for Secretary to PM to file a supplementary affidavit claiming privilege in respect of the classified papers. As the next date of hearing is 17th January, 2001, this may please be treated as Most Immediate.

विधि न्याय को न्याय कार्य मंत्रालय
प्राप्त तथ: न्याय अनुभाग
3 JAN 2001
101
को प्राप्त हुआ
नमू. कार्यरी सं.

Handwritten signature of P.S. Lally and date 02/01/01.

(P.S. Lally)
Under Secretary

Director (A)

Handwritten signature of Archana Ranjan.

Ministry of Law, Justice & Company Affairs (Deptt. of Legal Affairs, Advice 'A' Section), Shastri Bhavan, New Delh.

3792507

PMO U.O.No.G-16(4)/2000-NGO dated 02.01.2001

3010996

D.N. 01/G/2001-NGO (PMO)
3/1/2001
3981WR(A)S
2/1/01

Ministry of Law, Justice & Company Affairs
(Deptt. of Legal Affairs)
Dr. No. 20042/2000/13
5/1/2001

DEPARTMENT OF LEGAL AFFAIRS

-42-
-3-

The PMO has filed an affidavit dated 29.11.2000 before hon'ble justice Mukherjee Commission of Inquiry at Calcutta in compliance of its orders/directions dated 31.8.2000 and 28.9.2000. The said affidavit was filed by Sh. Jarnail Singh, JS to PM on specific direction of the Commission that the affidavit should be filed by the officer not below the rank of JS. In the said affidavit with the approval of the "Head of the Department" (the Director, notified under Rule 3 of the Delegation of Financial Powers Rules, 1978) to withhold the permission to produce the records listed in annexure I & IA or to disclose their contents or to give any evidence derived therefrom, privilege u/s 123 and 124 of the Evidence Act was also claimed. It is stated that the Government Counsel at Calcutta has informed that during the hearing on 22.12.2000 the hon'ble Mr. Mukherjee has observed that the affidavit claiming privilege ought to have been signed by an officer of the rank of Secretary to the Government of India. The PMO has accordingly referred the matter to us for advice as to whether another affidavit would require to be filed before the Commission over the signature of the Head of the Department as per the orders issued by the PMO in September 1998 i.e. by Smt. Archana Ranjan, Director or it would be necessary for Secretary to PM to file a supplementary affidavit claiming privilege in respect of the classified papers.

2. It has been held by the courts that the privilege u/s 123 of the Evidence Act to grant or withhold permission to the production of a document relating to affairs of State should be claimed generally by the Minister in charge who is the political head of the Department concerned, if not, the Secretary of the Department who is the Departmental Head [G.C. in Council vs. Peer Mohd. AIR 1950 (Vol. 37) Punjab 228, UOI vs. Sudhir Kumar AIR 1963 Orissa 111].

3. In another matter the High Court of Punjab while considering the affidavit by Director of Industries claiming privilege u/s 123 of the Evidence Act had observed that the Director of Industries may be called the Head of the Department for other purposes but for purposes of section 123 of the Evidence Act it is Secretary of the Department or the Minister in charge of the concerned Department who can file an affidavit giving or withholding the permission contemplated in this Act and therefore, the Director of Industries is not entitled to claim privilege respecting the letters in the land acquisition file kept and maintained by him. [1963 Cur. L.J. 130 (Punjab)] (Vide Law of Evidence Vol. II 1997 MLJ Publication page 707). Therefore, the Director may be the Head of the Department for the purposes of Rule 3 of the Delegation of Financial Rules, 1978 but for the purposes of section 123 of the Evidence Act, it is Secretary to PM who can file affidavit claiming privilege contemplated

under this section.

4. In view of the above a supplementary affidavit claiming privilege in respect of classified papers on behalf of Secretary to PM as observed by hon'ble justice Mukherjee seems necessary.

[Signature]

(ABDUL AZIZ)
DEPUTY LEGAL ADVISER
9.1.2001

J.S. & L.A. (B.A.A.)
Dy No 54-I
Date 9/1/2001
MS/AS/DPS
10/1/2001

JS & LA (Sh. B.A. Agrawal)

B
10.1.01

This being an important matter, it may please

[Signature]
11.1.2001

AS (Sh. D P Sharma)

Law Secretary

[Signature]
11/1

MLJ&CA

[Signature]
15/1/2001

Law Secy.

[Signature]
15/1

7/4/01 (BAA) - on leave

SLA (A)

[Signature]
10/1/2001

Smt. Archana Ranjan D'souza
P.M.O.

(विधि कानून विभाग)
(Deptt. of Legal Affairs)
U. No. 20042/01 Adv. (B)
16/1/2001

Law Secretary's
Dy No 223-I
11/1/01

Office of MLJ&CA
Dy. No. 96
Date 11/1/2001

INTERNAL

An affidavit was filed with Justice Mukherjee Commission of Inquiry appointed to enquire into the alleged disappearance of Netaji Subhash Chandra Bose at Calcutta on the 30th November, 2000. The Affidavit was signed by JS(J)PMO. In the Affidavit, besides explaining the factual position with regard to the availability of files, missing/destroyed files, the stand of PMO with respect to the notes/correspondence which had originated in the PMO, was also articulated. It was also stated in the above Affidavit that our stand would be formulated and intimated to the Commission once we hear the views of the National Museum and Government of Orissa about their decision on declassification of classified papers which had originated from them. Bases on the stand of Ministry of Home Affairs that certain documents which had originated from that Ministry that those be continued to be classified, this Office too had claimed privilege in the Affidavit.

2. The Central Government Counsel appointed by M/Law Justice & Company Affairs (Calcutta Branch) came to this Office in the first week of January, 2001. He informed that during the course of hearing on 22.12.2000, Justice Mukherjee had observed that the Affidavit of PMO, claiming privilege ought to have been signed by an officer of the rank of Secretary to Government of India, although he did not take the issue further. In the proceedings of the Commission, received in the PMO, there is no specific direction in this regard, although the arguments regarding the matter relating to the privilege claimed by MHA/PMO is to be resumed tomorrow (17.01.2001) at Calcutta. In anticipation of the directions about filing of affidavit by Secretary to PM, we had sought the legal opinion of M/Law, Justice & Company Affairs, on 3.01.2001. The advice of M/Law, Justice & Company Affairs has just now been received and is placed below for perusal. Law Ministry have advised filing of supplementary affidavit by Secretary to PM. When the earlier draft affidavit was got vetted by Law Ministry, for filing by JS(J), that Ministry had not opined on these lines.
3. Draft of the Supplementary Affidavit to be signed by Secretary to PM has been attempted and placed below for his approval/signatures.

(P.S.Lally)

16.01.2001.

Dir(A)

As advised by Ministry of Law, Supplementary Affidavit of the Secy to PM, claiming privilege, placed below for approval.

Aranya
16/1

James Singh
16/1/2001

JS(J)

Secretary - has signed each page. US (WGO) would deliver to the Commission, along with covering letter. Aranya 16/1

JS(J)

Dir(A)

Aranya
16/1

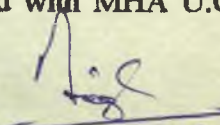
Aranya
16/1

2-11/DIR(M)/TS/100
16/1

Internal

Vide FR, the Ministry of Home Affairs have enclosed photocopies of five classified UO's written by this Office to Ministry of Home Affairs. Two UOs have been categorised as "Top Secret". The subject matter of the two communications is "Controversy regarding Netaji's death and bringing his ashes to India from Japan." It has already been decided, with the approval of JS(A) at page 17/N of Top Secret file No.G-16(4)/2000-NGO, that all notes/correspondence originating from PM's Office, copies of which have already been made available to the Mukherjee Commission appointed to enquire into the alleged disappearance of Netaji Subash Chandra Bose, may be declassified as confidential. The Commission may, however, use their discretion to make all/any of these documents public. 2. The above stand was conveyed to the Commission also. It may, however, be mentioned that we have claimed privilege, vide affidavits filed by JS(J) on 29.11.2000 (pages 153-161) and Shri N.K. Singh, then Secretary in this office, on 16.1.2001 (pages 223-227/C), in respect of the two Top Secret communications originating from MHA, since that Ministry had advised us that their Top Secret letters at Sl. No. 1 and 2 of para 2 of their U.O. dated 3rd November, 2000 (pages 66-67/C) may continue to be classified. Privilege was also claimed by us for the notes portion only (and not correspondence portion) on PMO files in which MHA Top Secret communications were examined . With regard to the correspondence portion, as already mentioned in para 1 of this note, these two Top Secret papers originating from PMO files, stand declassified as Confidential but the Commission may use its discretion to make any/all these communications public.

3. The above position may be intimated to Political Section for framing appropriate response to the communication received from the Ministry of Home Affairs after adding the position with regard to the other three communications enclosed with MHA U.O., referred to above.


19/3/2001
[P.S. Lally]
Under Secretary(NGO)

Dir(A)

only the above may p. be sent to
US (Pol). Top Secret files may
p. be returned to NGS separately.

~~Dir (A)~~

~~US (NGO)~~

19/3

19/3/2001
Note removed in
Dir's office.

10026/01

Subject:- Justice Mukherjee Commission of Inquiry for inquiring into the alleged disappearance of Netaji Subhas Chandra Bose.

Reference(s): ① Secret Regd. letter dt. August 1, 2001, and
② Regd. letter dated August 2, 2001, from
Shri Tarakeshwar Pal, Senior Standing Counsel
to the G.O.I. in the Justice Mukherjee Commission
of Inquiry, addressed to Smt. Sangita Gaisola,
Joint Secretary (IS-I), MHA, with a copy endorsed
to Shri Jarnail Singh, JS (J), PMO, among others.

In his first letter dt. 01-8-2001, ^{at FR-I,} relating to the
affidavit of the deponent Sri Usha Ranjan Bhattacharjee, dated
5th March, 2000, Shri Tarakeshwar Pal, our counsel, has requested
PMO to take steps for filing an affidavit in the matters of
item (b) of paragraph 3 of his letter which reads as under:

" 3 (b) Records relating to formation and proceedings
of the Shah Nawaz Committee (it may relate to
Cabinet Secretariat, the Prime Minister's Office
and Ministry of External Affairs — although
some of the records as to proceedings have
been placed before the Hon'ble Justice
Mukherjee Commission). "

In this connection it may be stated that NCO Section
has no records on the said item (b) of para 3. of Shri Pal's
letter dt. 01-8-2001, relating to the Shah Nawaz Committee,
which was constituted in 1945.

2. In his second letter dated 2nd August, 2001,
at FR-II, ~~relating~~ relating to the affidavit by the deponents —
① Subrata Bose, ② Smt. Chitra Ghosh and ③ Sri Supriyo Bose,
before the Hon'ble Commission, Shri Tarakeshwar Pal, our counsel,
has advised PMO for filing affidavit in r/o item (a) of para-
graph 5 of his letter which reads as under:

" 5 (a) The relevant records (without specification)
in the Prime Minister's Office during Jawahar
Lal Nehru. "

In this connection, it may be stated that photocopies
of two Top Secret files viz. ① F.No. 23(11)/56-57-PM and
② F.No. 2(64)/56-66-PM (Vol. II), which are the only two files
in ~~the~~ N. G. O. Section relating to the subject matter of the
inquiry, during the period of office of Late Pt. Jawahar
Lal Nehru as P.M. ^{12 till May, 1947} have already been forwarded to
Justice Mukherjee Commission of Inquiry alongwith five
other files, vide this Office letter dated 24-7-2000

(C/c at page 6/enc. of F.No. G-16(4)/2000-Nao).

Nao. Section, therefore, have no more records/files to place before the Commission, with reference to Shri Tarakeshwar Pal's two letters cited above.

Submitted please.

10/8/2001

Div(RP)/JS(J) may kindly see.
Thereafter, a copy of this note would be made available to Political Section for formulating a consolidated reply to the two letters received from Shri Tarakeshwar Pal, Central Govt. Counsel at Calcutta.

10/8/01
P.S. Lally
JS(Nao)

~~Div(RP)~~ JS
10/8

10/8

JS(J) JS(RP)
VS(H/KO)
14/8

Through this note file to VS (Pol.) for reply.
14/8/01

POLITICAL SECTION

Please find enclosed copies of two letters dated 26/28/08/01 and.
29th August, 2001/ 3rd September, 2001 from Shri Tarkeswar
Pal, Senior Standing Counsel to the Govt. of India in Justice
Mukherjee Commission, Kolkata for information and necessary
action.

Alok
(Alok Mukhopadhyay)
Under Secretary (Pol)
19.9.2001

त.का. (एन.जी.ओ.)/PMO (NGO)

No/Dy. No.../59/4/2.001 ...

Date...22/9/01...

US (NGO)

urgent
Shri Ramaswami
29/9

FR-1 & II
[from prepage]

-2- 49-
N.G.O. Section

US(Pol) has forwarded to NGO Section copies of two letters dated 26/28th August, 2001 and 3rd September, 2001, from Shri Tarakeshwar Pal, Senior Standing Counsel to the Govt. of India in Justice Mukherjee Commission of Inquiry, inquiring into the alleged death/disappearance of Netaji Subhas Chandra Bose, for information and necessary action. Both the letters have been addressed to Ministry of Home Affairs with a copy thereof endorsed to PMO as well.

FR-I
@ FR-II
2. The points raised in the first letter dated 26/28-08-2001 refer to the averments/contentions/allegations made in ~~this~~ the affidavit dated 31-01-2000 by Shri Bijan Ghosh (Deponent No.19 before the Hon'ble Commission). The second letter dt. Aug. 29/ Sept. 3, 2001, refers to the averments/contentions/ allegations of another deponent, Shri Anil Krishna Mukherjee, on his behalf, and on behalf of All India Forward Block, a political party (also shown as Deponent No.19).

3. In the first letter dt. 26/28-8-2001, Shri Tarakeshwar Pal has asked for our comments and affirm by due Affidavit to be filed before the Hon'ble Commission on sub-paragraphs (a) and (c) to (e) mentioned in the first paragraph of the said letter. Before going into the specific points, it may be stated here that NGO Section have only 7 (seven) Top Secret/Secret files on the subject and photocopies of all the seven files have already been forwarded to the Justice Mukherjee Commission of Inquiry, Kolkata, vide our letter dated the 24th July, 2000 (O/c at page 6/cor of F.No.G-16(4)/2000-NGO refers). Privilege has been claimed only in respect of papers which had originated from the Ministry of Home Affairs and related papers on PMO files.

4. NGO Section's comments on sub-paragraphs (a) and (c) to (e) of first paragraph of letter dated 26/28-8-2001, are given below.

"(a) That no useful and effective purpose can be had out of the present Justice Mukherjee Commission of Inquiry if the documents/records classified are not produced before the Hon'ble Commission, particularly those leading decision of the Govt. of India in 1992 for conferring "Posthumous Bharat Ratna" upon the Netaji."

"(c) The Govt. of India has also not produced "some further contemporary official documentary records" relying on which the Hon'ble Prime Minister of India informed on 28th August, 1978 the Parliament that doubts and contradictions cropped up and as such the reports of Shah Nawaz Committee and Justice Khosla Commission were declared not decisive."

"(d) The Late Morarji Desai, Ex-Prime Minister of India (except whom - even no M.P. was allowed) examined the boxes/diplomatic cambis bags full of gold ornaments and Jewellaries (of the Ajad Hind Government) as were kept in National Museum after it were brought

-3- -50-

From prepage

from one's personal custody where the same were collected from the spot of the alleged plane crash killing the Netaji (on 18th August, 1945). Those articles should be ordered to produce before the Hon'ble Commission along with demand for accounts as to the money and treasure of the lawful Ajad Hind Government Bank."

- "(e) The Netaji, being a War Criminal, is not a citizen of India as per Part II of the Constitution of India, and to face this the records as to declaring such War Criminal be produced, and the Netaji being a War Criminal of "International" category, the working of the present Justice Mukherjee Commission to know this whereabouts, is impossible, although the Hon'ble Orissa High Court Ordered on 23rd October, 1998 directing the Govt. of India to take all steps to remove the name of the Netaji from the War Criminal list."

Comment: ^{(a), (b) 5/2} N.G.O. has no papers.

5. With regard to the second letter dated 3rd September, 2001, it may be stated with reference to paragraph 2, that N.G.O. has no papers. Photocopies of all papers available with the N.G.O. on the subject matter have already been sent to the Commission.

11/10/2001

May kindly see for kind information before a copy of this note is sent to US(Pae) for putting up a consolidated note on this, & drafting a suitable draft of the Affidavit to be filed before the Commission.

Amal
1/10/2001
(P.S. Lally)
US(NGO)

OSD(K)

Dir(J) may pl
see as MHA side as
done dt 46-N

One 3/10

4/10

US(NGO)

US(Pae) may pl retain a copy

of note dt 1/10/2001 for file
~~not to be~~ further n/a 5/10/2001

Copy sent to US(Pae)

77/TS/B/A (7)/01
06/10/01

3/OSD(K) TS/O/A 13/10/02

SECRET

S. No. 1 (I)

(1)

Prime Minister's Office

No. 915/11/C/2/2000-Pol

4th July, 2000

**From : Ms. Archana Ranjan,
Director
Prime Minister's Office
South Block,
New Delhi.-110011.**

**To: Shri P.K. Sengupta
WBHJS (Retd.)
Secretary,
Justice Mukherjee Commission of Inquiry
B' Block, (Third Floor)
11/A Mirza Ghalib Street, Calcutta 700 087.**

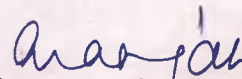
Sir,

I am directed to refer to your letter No.JMC/Meeting/48/95 dated 23rd May, 2000 and to forward the photocopies of the files/records concerning Netaji Subhas Chandra Bose/INS as per the list enclosed. Two files which are classified as Top Secret, are being sent separately.

2. The file No.12(226)/56-PM which contained agenda paper/cabinet decision regarding "Investigation into the circumstance leading to the death of Shri Subhash Chandra Bose" was destroyed in 1972 in course of routine review/weeding of old records since records of Cabinet proceedings are kept permanently in Cabinet Secretariat, from where they may be procured.

3. Certain documents of F.No.23(156)/51-PM required by the Commission have been destroyed while recording that file in 1969. The list of the papers destroyed may kindly be seen in that file.

Yours faithfully,


[Archana Ranjan]
Director

✓
Copy to NGO Section

2

List of files on Netaji Subhash Chandra Bose
located in PMO records:

Sl.No.	Files Number	Subject
1.	23(156)/51-PM (Secret)	Disposal of properties of Indian National Army in the far East.
*2.	23(11)/56-57-PM (Top Secret)	I.N.A Treasure.
*3.	2(64)/56-66-PM Vol. I,III,IV& V (Secret) Vol.II – (Top Secret)	(i) Death of Sh. S.C.Bose. (ii) Appointment of an Enquiry Committee to go into the circumstances of the death.
4.	2(64)/78-PM (Secret)	- do-
5.	2(64)/79-PM (Confidential)	- do-
6.	2(64)/80-PM	- do-
7.	2(64)/81-PM	- do-
8.	2(64)/82-PM	- do-
9.	2(64)/84-PM	- do-
10.	2(64)/86-PM (Secret)	- do-
11.	800/6/C/3/88-Pol (Secret)	-do-
12.	800/6/C/1/89-Pol (Secret)	Netaji Subhash Bose
13.	800/6/C/1/90-Pol	Netaji Subhash Bose
14.	800/6/C/1/91-Pol	Disappearance of Netaji Subhash Bose
15.	915/11/C/6/96-Pol	Disapperance/death of Sh. S.C.Bose.
16.	5/11/C/9/99-Pol [Vol. I,II & III] (Vol.I-Secret)	Disappearance/death of Shri S.C. Bose.

*Regarding F.Nos. 23(11)/56-57-PM and 2(64)/56-66-PM (Vol.II) being
Top Secret a further communication will follow.

S. No. 2 (I)

Most Immediate

Secret

(3)

D.O.No.915/11/C/2000-Pol./NGO

July 5, 2000

Dear Shri

In response to DO letter No.2(64)/56-63-PM dated 23.5.1963, addressed by Shri K.Ram, the then PPS to PM to Shri B.N.Mullik, the then Director, IB, requesting him to have suitable enquires made and to send a report, about the letter sent to the Prime Minister by Shri Ramani Ranjan Das, Secretary, Shaulmari Ashram, in connection with Shri Subhash Chandra Bose, IB had sent a Top Secret Note vide No. III(51)/63(6) dated 12.6.1963 on one Shri K.K.Bhandari.

2. On a further Top Secret reference made by this Office on 7.9.1963, and reminder dated 11.11.1963, IB had sent a Top Secret reply on 16.11.1963.

3. As per the Departmental Security Instructions, 'Top Secret' classification shall be applied to information and material, the unauthorised disclosure of which could be expected to cause exceptionally grave damage to the "national security or national interest". This category of classification is reserved for the Nation's Closest Secrets and is to be used with great reserve.

4. As IB is, no doubt, aware, Justice Mukherjee Commission of Inquiry has been set up by Government of India to inquire into the alleged disappearance of Netaji Subhash Chandra Bose. The Commission have issued directions on 23.3.2000 that Government of India shall produce before the Commission, within 6 weeks from the date of communication of the orders/directions "all files relating to Netaji Subhash Chandra Bose and/or I.N.A. in the Prime Minister's Secretariat,". The Commission has further directed on 13.6.2000 that their directions for the production of files should be complied with by July 31, 2000.

5. This Office intends to produce, among others, the file on which the correspondence mentioned in paras 1 and 2 is contained before the Commission. Before this is done, we feel that with the passage of more than 3 decades, and the nature of the IB's reports, the same may be downgraded from 'Top Secret' to 'Secret'.

6. I shall, therefore, be grateful if IB's concurrence to the downgradation of their letters mentioned in paras 1 and 2 above, is conveyed, urgently.

Yours sincerely,

(Archana Ranjan)

g/c

Shri P.Mahendroo,
Joint Director,
Intelligence Bureau,
New Delhi.

प्र.मं.का. (एन.जी.ओ.)/PMO (NGO)

जारी/Issued.....

दिनांक/Date..... 5/7/2000

Justice Mukherjee Commission of Inquiry

for inquiry into the alleged disappearance of

Netaji Subhas Chandra Bose

'B' Block (3rd floor)

11/A Mirza Ghalib Street, Calcutta-700 087

Phone:
033-216-2765/60
033-216-2835.

Fax:
033-216-2765

SECRET

No. JMCI/.....Documents/99-2000/37/153.

Calcutta, dated, the **11.07.2000.**

S.No. 3 (R)

From : Shri M. Roy, IAS (Retd.),
Officer on Special Duty

To : Ms. Archana Ranjan,
Director,
P.M.'s office,
South Block,
New Delhi-110011.

Madam,

With reference to your letter No.915/II/2/C/2000-Pol. dated 4th July, 2000, I am directed to acknowledge receipt of the photo-copies of 20 files including part-files as per list enclosed with your aforesaid letter, the contents of which are under scrutiny in the office of the J.M.C.I.

I am further directed to request you to expedite your further communication regarding top secret File Nos. 23(11)/56-57-PM and 2(64)/56-66-PM (Vol.II).

Yours faithfully,

(M. Roy)

Officer on Special Duty

13/7
US (NGO)
MS (Pol)
Pl. retain a copy for your record & return for file on page 2 above.
14/7

File is under admin. review b/fm
14/7
San Ramani

Returned 14/7
17/2
MS (PMO)

ब.म.का. (एन.जी.रो.)/PMO (NGO)
उल्लेख/Ref. No. **578/5/2000**
दिनांक/Date **13/7/2000**

1901310 (00) 1/10
37



P. Mehendru
Joint Director

S. No. 4 (R)

SECRET

No. III-6C11/2000(2)7844
INTELLIGENCE BUREAU
(MINISTRY OF HOME AFFAIRS)
GOVERNMENT OF INDIA

New Delhi, the 15 JUL 2000 19

Dear Ms. Ranjan,

Please refer to your D.O. letter No. 915/11/C/2000-Pol/NGO dated July 5, 2000 seeking IB's concurrence to the downgrading of two of its Top Secret D.O. letters dated 12.6.1963 and 16.11.1963 issued from file No. III(51)/63(6).

2. The matter has been examined at our end. We concur with the view of the PMO that the two communications referred above may be downgraded from 'Top Secret' to 'Secret'.

With best wishes,

Yours sincerely,

P. Mehendru
(P. Mehendru) 15/7/2000

Ms. Archana Ranjan,
Director,
Prime Minister's Office,
NEW DELHI.

Q
17/7
us (600)
17/7

N.S.C. Case file
under submission

इ.नं.का. (एन.जी.ओ.)/PMO (NGO)
ह: उं०/Dy. No. 539/5/2000
दिनांक/Date 17-7-2000

1911D(BCA) S1 17/7

P. No. 15(I)

BY SPEED POST
TOP SECRET

PRIME MINISTER'S OFFICE

No. G-16(4)/2000-NGO

Dated the 24th July, 2000.

From: Ms. Archana Ranjan,
Director,
Prime Minister's Office,
South Block,
New Delhi-110011.

To: Shri P.K. Sengupta,
WBHJS(Retd.),
Secretary,
Justice Mukherjee Commission of Inquiry,
B-Block (Third Floor),
11/A, Mirza Ghalib Street,
Calcutta-700 087.

For Acknowledgement
see page
10/c.

Sir,

In continuation of my letter No.915/11/C/2/2000-Pol dated 4th July, 2000, the photo-copies of the following Top Secret/Secret files are forwarded:-

<u>Sl. No.</u>	<u>File No.</u>	<u>Subject</u>
1.	23(11)/56-57-PM (T.S.)	- I.N.A. Treasure.
2.	2(64)/56-66-PM (T.S.) (Vol.II)	- 1. Death of Shri Subhash Chandra Bose. 2. Appointment of an Enquiry Committee to go into the circumstances of the death.
3.	G-12(18)/94-NGO (T.S.)	- Controversy regarding Netaji's death and bringing his ashes to India from Japan.
4.	G-16(3)/95-NGO (T.S.)	- Proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India.
5.	G-4(2)/95-NGO (T.S.)	- Proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India - (Cabinet Meeting).
6.	G-12(3)/98-NGO (T.S.)	- Transfer of the Ashes of Netaji Subhas Chandra Bose to India.
7.	T-2(64)/78-PM (Secret)	- Death of Netaji Subhas Ch. Bose - Appointment of an inquiry commission to go into the circumstances of death. ...2/-

2. Please acknowledge receipt.

3. It is further requested that while information contained in the 'Top Secret' papers may be made use of by the Commission, in camera, since these are classified as 'Top Secret', they may kindly consider not publishing the same.

Yours faithfully,


(Archana Ranjan)
Director

Ends. As above.

Des ned w/dm
Ends. as above.

POLITICAL SECTION

8

There are some recorded **Top Secret** files in Political Section which we propose to transfer to NGO.

2. The files listed in the attached list may now be transferred to NGO. Other files will follow.

Mxen
19/7

Under Secretary(Pol)

We have some more files
which will be sent in due course.

Amr
19/7/2000

Under Secretary(NGO)

19/7/00

ह.म.का. (एन.सी.ओ.)/PMO (NGO)
डा.तं. व. २३/६/२०००
दिनांक/Date..... 20/7/2000

No. 800/30/c/1/97-POL

S.No. File No. Subject Classification

- ✓ 1. T-2(64)/78-PM Death of Netaji Subhas Chandra Bose – Appointment of an Inquiry Commission To go into the Circumstances of death.
- ✓ 2. 2(911)/81-PM Supervision over the activities of voluntary institution/organizations which are receiving Govt. Funds either directly or Indirectly – PM's minutes About.
- ✓ 3. 2(1098)/84-PM Assassination of the Prime Minister Smt. Indira Gandhi Correspondence regarding.
- ✓ 4. 2(1098)/84-PM Ashes of late PM Smt. Indira Gandhi – arrangement for.
- ✓ 5. 8(375)/66-PM Prime Minister's Projected visit abroad.
- ✓ 6. 8(532)/71-PM PM's visit to Moscow in September, 1971.
- ✓ 7. 8(29)/75-PM Visit of Foreign Dignitaries to India.
- ✓ 8. T-8(29)/76-PM Visit to India of Foreign Dignitaries.
- ✓ 9. T-8(29)/76-PM Visit to India of Foreign Dignitaries – 1976.
- ✓ 10. T-8(29)/78-PM Visit of India of Foreign Dignitaries – 1978.

~~Top Secret~~
Downgraded with the approval of JS(A) vide dno. 19/JS(JS(A))/2000 dt 20/7/2000
24/2/2000

After downgradation from Top Secret to Secret,
F.No. 2(64)/56-66-PM (Vol. II) has been returned back to Political Section vide US(NAS)'s note dt. 02-4-02 (Copy at pg. 277/cor of F.No. G-16(4)/2000-NAS).

11. F.No. 2(64)/56-66-PM Vol. II
1. Death of Shri Subhash Chandra Bose.
2. Appt. of an Enquiry Committee to go into the circumstances of the death.
12. F.No. 23(11)/56-57-PM. — I.N.A. Treasure

Recd. from Poll. Section vide US(Pol)'s note dt. 4-7-2000 placed in RAO. G-16(4)/2000-NAS (Pg. 4-5/N)

S. No. 6 (R)

(10)

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Calcutta 700 087

Phone:
216-2765-68 & 216-2835

Fax:
216-2765

e-mail
jmcinscb@cal3.vsnl.net.in

No. JMCI/Meeting-Proceedings(Follow Up)/ Calcutta, dated, the 02.08.2000.
48/181.

From : Shri M. Roy, I.A.S.(Retd.),
Officer on Special Duty

To : Ms. Archana Ranjan,
Director,
P.M.'s office,
South Block,
New Delhi-110011.

Madam,

I am directed to acknowledge the receipt of the photo-copies of seven Secret/Top Secret files sent under your letter No.G-16(4)/2000-NGO dated 24.07.2000 and the photo-copies of ten more files sent under your letter No.915/11/C/2/2000-Pol. dated 25.07.2000 which are all awaiting scrutiny at this end.

Yours faithfully,

(M. Roy)

Officer on Special Duty

US (Pol)
NGO Section may retain a copy for their file (placed below)

US (CA)

प्र.म.का. (एन.जी.ओ.)/PMO (NGO)
ड. सं./Dy. No. 148/6/2000
दिनांक/Date 8-8-2000

1688/DIA (CA)/a) 000
2107

Re: keep it on our file. Photocopy sent to US (Pol).

Photocopy of this acknowledgment sent to Political Section on 08-08-2000 as directed.

Original with Pol-section/Sl.No.7(Receipt)

JUSTICE MUKHERJEE COMMISSION OF INQUIRY

FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF

NETAJI SUBHAS CHANDRA BOSE.

'B' Block, (Third Floor)

11/A Mirza Ghalib Street, Calcutta 700 087

Phone:

216-2765-68 & 216-2835

Fax:

216-2765

E-Mail

jmcinscb@cal3.vsnl.net.in

No. JMCI/Meeting-Proceedings(Follow-up)/48(Vol.II)/243(5)

Calcutta, dated, 06.09 2000

REGISTERED WITH A/D.

From : Shri P.K. Sengupta, WBHJS (Retd.),
Secretary

To
The Secretary
Prime Minister's Secretariat,
South Block,
New Delhi 110 001

Subject **Strict compliance with the orders/directions contained in the proceedings dated 31.08.2000 read with the proceedings dated 23.03.2000 and 13.06.2000 of Justice Mukherjee Commission of Inquiry.**

Sir,

I am sending herewith a copy of the proceedings dated 31.08.2000 of the Commission containing its orders and directions for your perusal and compliance thereof as directed by the Commission.

Copies of the proceedings dated 23.03.2000 and 13.06.2000 of the Commission were sent to your office earlier.

Yours faithfully,

P.K. Sengupta

(P.K. Sengupta)
Secretary

Encl: As stated above.

1849/2000(A) / 3/2000
11/9

August 31, 2000

After perusal of the files/documents still now made available to the Commission and hearing the parties and/or their representatives present, the following directions are given to the authorities noted below :

A. PRIME MINISTER'S OFFICE/SECRETARIAT

- (i) While sending photocopies of seven files marked as 'Top Secret/Secret' with a forwarding letter No. G-16(4)/2000-NGO dated July 24, 2000 (also marked 'Top Secret/Secret') addressed to the Secretary of the Commission, a Director of the Prime Minister's office, South Block, New Delhi has made the following request :

"It is further requested that while information contained in the 'Top Secret' papers may be made use of by the Commission, in camera, since these are classified as 'Top Secret', they may kindly consider not publishing the same."

Viewed in that context, the above office/secretariat is directed to adduce specific reasons as to why privilege is being claimed against the disclosure of the contents thereof, more so, when the Commission is holding a public enquiry and its report will be a public document and the contents of those files may have an important bearing.

- (ii) The above office will let this Commission know whether any of the files/records relevant to the terms of reference of this Commission has been destroyed and, if so, details thereof and why, when and where they were destroyed and whether copies of the documents contained therein have been kept or maintained.

- (iii) In spite of directions contained in paragraph a(i) read with paragraph (b) of the order of this Commission dated March 23, 2000 read with the order dated June 13, 2000, the above office/Secretariat has not filed any affidavit regarding the availability of files/documents mentioned in the aforesaid paragraph a(i).

Evidence Act
Lawyer

B. MINISTRY OF HOME AFFAIRS

- (i) In spite of the directions of the Commission contained in its orders dated March 23, 2000 and June 13, 2000, the complete original records of the entire proceedings of Justice Khosla Commission of Inquiry, including the evidence recorded by and documents produced before the said Commission, have not been sent.
- (ii) In his affidavit dated June 20, 2000, the Director (IS-I) attached to the Ministry of Home Affairs has stated, inter alia, that in their Ministry only the files regarding bringing back of the presumed ashes of Netaji kept in Renkoji Temple in Tokyo in Japan and posthumous announcement of award of 'Bharat Ratna' to Netaji are available, and according to the deponent, those files do not have any direct bearing on the on-going inquiry of the Commission. Notwithstanding the above observation, the Ministry of Home Affairs is directed to submit those files before the Commission immediately.

C. MINISTRY OF EXTERNAL AFFAIRS

- (i) In spite of earlier directions of the Commission contained in the orders of the Commission dated March 23, 2000 and June 13, 2000, the complete original records of the entire proceedings of Shah Nawaz Khan Committee of Inquiry including the evidence recorded by and the documents produced before the said Committee, have not been sent.
- (ii) Along with his letter No. 25/4/NGO-Vol.V dated March 1, 2000 (marked 'Top Secret'), Joint Secretary (CNV) has given a list of some files marked 'Top Secret'. The Ministry is directed to produce the said files in original before the Commission for its inspection and also explain why those files are still being treated as 'Top Secret', more so, when the Commission is holding a public enquiry and its report will be a public document and the contents of those files may have an important bearing.

D. GOVERNMENT OF WEST BENGAL

Secretary to the Home Department, Government of West Bengal, is directed to produce the original Index Books, together with xerox copies thereof, relating to the files detailed in Annexure 'B' to the affidavit dated July 28, 2000 filed by Shri Aloknath Bhattacharyya, Special Secretary to the Government of West Bengal, Home (Political) Department. The Index Books shall not be taken back without the leave of the Commission.

E. COMPLIANCE WITH THE ABOVE ORDERS/DIRECTIONS

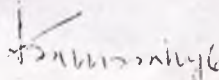
All informations to be furnished in terms of the above orders/directions must be supported by affidavits of competent officers, not below the rank of a Joint Secretary to the Government of India, and filed by September 26, 2000. All files/documents, in terms of the above orders/directions, must be produced also by the same date.

F. EXAMINATION OF WITNESSES

- (i) The Government of India is directed to produce its witnesses, if any, on the next date of hearing for their examination, before the Commission examines witnesses cited by other parties.
- (ii) Of the witnesses cited by the other parties, let the following witnesses be summoned to appear on the next date of hearing :
1. Dr. Sisir Kumar Bose, Chairman, Netaji Research Bureau, Calcutta
 2. Shri Suman Chattopadhyay, Executive Editor, Ananda Bazar Patrika, Calcutta.
 3. Shri Ardhendu Sarkar, formerly of Bharat Heavy Engineering Corpn.
 4. Shri Anindya Sengupta, Columnist, The Statesman, Calcutta.
 5. Shri Nilanjan Basu, Reporter, Bartaman, Calcutta.
- (iii) As regards the other witnesses cited by them, appropriate directions as to who of them will be examined and when, will be notified in due course.

G. NEXT HEARING

The next hearing of the Commission will be held on September 28, 2000 at 11 A.M. in the Seminar Hall, Annexe Building, Mahajati Sadan, 166 Chittaranjan Avenue, Calcutta 700 007.


(M.K. Mukherjee)
Chairman.

Before the Hon'ble Justice Mukherjee Commission
of Inquiry at Calcutta.

**IN THE MATTER OF COMPLIANCE WITH THE ORDERS/
DIRECTIONS OF THE COMMISSION AS PASSED IN ITS
PROCEEDINGS HELD ON 23.3.2000 AT CALCUTTA.**

AFFIDAVIT

I, A.K. Paitandy s/o Late Dr. P. Paitandy, working as Director (Internal Security-I) in the Ministry of Home Affairs do solemnly affirm and state as under:

That the following Ministries/Departments/Organisations seem to be concerned with regard to the availability of old files/documents connected with the alleged disappearance of Netaji, INA and the record of proceedings of the Shah Nawaz Khan Committee, 1956 and the Khosla Commission of Inquiry, 1974 which earlier went into similar inquiries as is presently being conducted by the Hon'ble Justice Mukherjee Commission of Inquiry:-

- (a) Prime Minister's Office
- (b) Cabinet Secretariat
- (c) Ministry of Home Affairs
- (d) Ministry of Defence
- (e) Ministry of External Affairs
- (f) Intelligence Bureau
- (g) Department of Culture (National Archives of India)
- (h) Research and Analysis Wing (R&AW)

2. The above mentioned Ministries/Departments/Organisations were accordingly provided with the copies of the Commission's directions/orders

dated 23.3.2000 for complying with the same. In this connection, attention is invited to this Ministry's D.O. letters No.I-12014/13/2000-IS(D.III) dated 11.04.2000, written to individual officers, a copy each of which has also been provided to the Commission. As already mentioned in para(v)(b) of the Commission's aforesaid orders/directions dated 23.3.2000, the requisite affidavit is to be filed by the competent persons of the concerned Ministries/Departments giving a list of files available on Netaji/TNA. However, in view of the fact that some of the Departments/Organisations have informed that they do not have any papers on Netaji/TNA, there seems to be some confusion about filing of Affidavits to that effect by them. In view of this fact and in deference to the directions/orders of the Commission, this Ministry is filing this Affidavit on behalf of the following and I accordingly further affirm and state that there are reportedly no files/papers concerning Netaji/TNA in their (the under mentioned Department's) possession:-

- (i) Cabinet Secretariat
- (ii) Intelligence Bureau
- (iii) Research and Analysis Wing

The Communications received from these organisations have already been forwarded to the Commission separately.

3. The Prime Minister's Office have a total of sixteen files, the details of which have already been communicated to the Commission, vide Prime Minister's Office letter No.915/11/c/2/2000-Pol dated 2.5.2000. This Ministry, vide its letter No.I-12014/13/2000-IS(D.III), dated 31.5.2000 has requested the Commission, inter-alia, to consider the feasibility of relevant files available in Prime Minister's Office, being perused/scrutinised at New Delhi. The Commission has, however, requested Prime Minister's Office to

make available to it photocopies of the files, which according to their report to the Commission, are available in the Prime Minister's Office. The Commission's letter No.JMCI/Meeting/48/93 dated 23.5.2000 refers.

4. Similarly, Ministry of External Affairs, vide DO letter No25/4/NGO-Vol.V, dated 24.5.2000 have inter-alia pleaded for scrutiny/perusal of the files/records available in MEA at New Delhi. In response thereto, the Commission have, for the time being, asked the Ministry of External Affairs to send photocopies of the following two files on Netaji/INA available with them, to the Commission:-

- (j) No.C/551/5/72-JP Part-III- Netaji Enquiry Commission under the chairmanship of Minister Shri Shah Nawaz Khan, 1956
- (ii) KW to file No.C/551/5/72-JP Part-III Record of evidence tendered before Shah Nawaz Committee-1956.

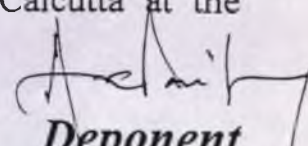
The Commission's letter No.JMCI/Meeting/48/93 dated 23.5.2000 refers. As regards the nine (9) Top Secret files available in MEA , the decision of the Commission is awaited, vide its letter No.JMCI/Meeting/99-2000/48/107 dated 5.6.2000.

5. The National Archives of India, vide their DO letter No.F.9-2(19)99 P.A. dated 24-4-2000 (copy attached), have informed that in addition to 990 files declassified and transferred to them by the Ministry of Defence on 26.8.1997, about which the Commission have already been informed separately, some more files are available with them. A fresh list of files relating to Netaji/INA have also been furnished. The Commission has, however, requested the Directorate General, Archives, to send photocopies of the files, which according to their report to the Commission in pursuance of the orders/directives contain in the proceedings dated 23.3.2000 of the Commission, are available at their end. It is presumed that the Director

General, Archives would be taking necessary action in the matter under intimation to the Commission.

6. The Ministry of Defence(History Division), vide their DO letter No.2191/NIC/99, dated 9.5.2000 (copy attached) have informed that they have already apprised the Justice Mukherjee Commission of Inquiry that all the files/documents pertaining to INA held by the History Division of that Ministry had been declassified and transferred to the National Archives of India on 26.8.1997. They have also stated to have submitted to the Commission, vide their letter dated 16.2.2000, a list of these files. They have further stated that they do not have any other proceedings in their possession.

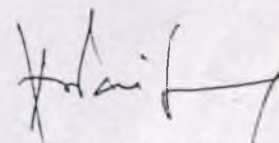
7. So far as the Ministry of Home Affairs is concerned, only the files on bringing back the presumed ashes of Netaji kept in Renkoji temple in Tokyo in Japan and posthumous announcement of award of 'Bharat Ratna' to Netaji, are available. These files do not have a direct bearing on the ongoing inquiry by the Commission. However, the record of proceedings of the Khosla Commission of Inquiry are available. Arrangements are being made to produce these proceedings before the Commission at Calcutta at the earliest.


Deponent

VERIFICATION

I, A.K. Paitandy, s/o Late Dr. P. Paitandy, declare and affirm that what is stated above is true to my knowledge. No part of this Affidavit is false and nothing material has been concealed.

Verified at New Delhi on 20th June, 2000.


Deponent

SN 505
mm 80

301-6634

General. Archives would be taking necessary action in the near future to return the documents to the Commission.
4. The Ministry of Education (History Division) vide its letter No. 100 dated 9.5.2000 (copy attached) have informed that they have already apprised the Japan Manchukuo Commission of Japan that all the files and documents to be held by the History Division of the Ministry and being deposited and transferred to the National Archives of Japan as on 2.5.2000. They have also stated to have submitted to the Commission, vide their letter dated 18.5.2000, a list of these files. They have further stated that they do not have any other proceedings in their possession.

5. So far as the Ministry of Home Affairs is concerned, only the files on bringing back the presumed ashes of Nishij kept in Bangkok temple in Tokyo in Japan and posthumous announcement of award of Bharat Ratna to Nishij are available. These files do not have a direct bearing on the ongoing inquiry by the Commission. However, the record of proceedings of the Khaba Commission of Japan are available. Arrangements are being made to produce these proceedings before the Commission at Calcutta in the near future.

Yours faithfully,

Deponent

VERIFICATION

I, A.K. Jha, do hereby certify that the above statement is true to the best of my knowledge and belief and that I am not aware of any circumstances which may render the statement false and untrue.

Verified at New Delhi on 20.05.2000

Deponent

संस्कृत
Sanskritराष्ट्रीय अभिलेखागार
NATIONAL ARCHIVES

DR. SUKUMAR SARKAR
Director General of Archives
Govt. of India
Tele No. 3383436
Fax: 0011-11-3384127

राष्ट्रीय अभिलेखागार

भारत सरकार

जानपथ, नई दिल्ली - 110001

NATIONAL ARCHIVES OF INDIA
JANPATH, NEW DELHI - 110001

Dated the 24 APR 2000

D.O.F.9-2(19)99 P.A

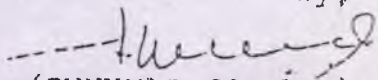
Dear Shri Paitandy,

Kindly refer to your D.O. letter No. I/12014/13/2000-IS (DIII) dated 11th April 2000 alongwith the proceedings dated 23rd March 2000 of Justice Mukherjee Commission of Inquiry. In this regard a fresh list of files relating to Netaji Subhas Chandra Bose and INA available with the National Archives of India is enclosed herewith for your kind perusal.

It may further be mentioned here that instead of 995 files as mentioned at page 3 of the proceedings of aforesaid Commission of Inquiry, National Archives of India received only 990 (Nine Hundred Ninty) declassified files transferred from Ministry of Defence, Government of India on 26th August 1997. This position has already been intimated to you vide National Archives of India letter of even no. dated 10th Mar 2000. It is needless to assure that all necessary facilities will be extended to the Commission as and when required.

With kind regards,

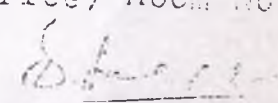
Yours sincerely,


(SUKUMAR SARKAR)

Shri A.K. Paitandy,
Director (IS-I)
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi-110001

Copy to:-

Shri S.N. Singh, Section Officer, Justice Mukherjee
Commission of Inquiry (New Delhi Office) Room No.
172-B, North Block, New Delhi.


(S.M.R. BAQAR)
Deputy Director of Archives

20
 1. Allot files transferred by the Ministry of Defence, Government of India, to the Ministry of Home Affairs, New Delhi as per the proceedings dated 23.3.2000 enclosed with Ministry of Home Affairs, New Delhi. Letter No. I/12014/13/2000-IS(D-III) dt. 11.4.2000

Sl. No.	File No.	Subject	Total Pages
		3	4
	138/INA	Subhas Chandra Bose - a) Notes b) His departure from Bangkok on 17th c) Is SC Bose still alive? d) Extract from Allied Forces SEA Weekly Intelligence Review No.57 for week ending 2 Nov.45. e) S.C.Bose's death Nurse at Hospital where he relates story f) Data relating to his death in an Aeroplane g) His proposal to see the Russian Ambassador h) Statement with regard to his death i) Last moments of S.C. BOSE	40 pages
2.	138/INA	Fortnightly Intelligence Summary	222 pages
3.	265/INA	1. Provisional Government of India 2. The Azad Hind Dal	132 pages
4.	75/INA	Important Documents Recovered by 'S' Section	74 pages
5.	249/INA	Information on Subhash Chandra Bose	185 pages
6.	379/INA <u>Pt. LXXIX</u>	Report bearing Secret No.1400/23/SE.CSOIC Red Fort, Delhi dated 29th May 1946	39 pages
7.	Speeches of Subhas Chandra Bose	Netaji's Broadcast at 21.15 hrs. to 21.25 hrs., special message on 18.6.45	2 pages

Files available in the National Archives of India holdings

No.	File No.	Subject	Remarks
1.	16-3/45-Poll.	Shifting of the ban on the Forward Bloc (It is containing the secret report dt. 19.9.45 by R. Tottenham)	67 pages
2.	8-18/46-Poll.	Council of State - Question - Nov. 1946 regarding the reappearance of Netaji Subhas Chandra Bose	10 pages
3.	8-15/46-Poll.	Council of State - Nov. 1946, by the Hon'ble Raja Yuvraj Dutta Singh. Efforts to capture Netaji Subhas Chandra Bose.	5 pages
4.	8-2/47-Poll.	Council of State - Question - Budget - session, 1947 The Hon'ble Raja Yuvraj Dutta Singh re-arrest of two Italian from the house of a forward Bloc worker, Indu Dev on suspicion that they had been deputed by Netaji Subhas Chandra Bose to the Punjab with some mysterious mission.	9 pages.

.....

~~CONFIDENTIAL~~

MOST IMMEDIATE

TIME BOUND

वित्त विभाग

रतन विभाग 22

नई दिल्ली



G.B. Singh
Director

Tele: 5102067

GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
HISTORY DIVISION
WEST BLOCK NO. 8
R.K. PURAM,
NEW DELHI-110066
09 May 2000

D.O. No. 2191/NIC/99

Dear Shri Paitandy,

Kindly refer to your D.O. letter No. 1/12014/13/2999-15 (D.III) dated 11 April and 04 May, 2000 regarding the directions/orders passed by Justice Mukherjee Commission of Inquiry (inquiring into the alleged disappearance of Netaji Subhas Chandra Bose) in its first sitting held at Calcutta on 23 March, 2000.

We have already apprised the Inquiry Commission that all the files/documents pertaining to INA held by the History Division, Ministry of Defence had been declassified and transferred to the National Archives of India on 26th August 1997. A list of these files has also been submitted to the Justice Mukherjee Commission of Inquiry vide this office letter of even number dated 16 Feb 2000. We do not have any other proceedings in our possession.

With regards,

Yours sincerely,

(G.B. Singh)

Shri A.K. Paitandy
Director (IS-1)
Ministry of Home Affairs
Government of India
North Block,
New Delhi-110001

CONFIDENTIAL

¹[This section applies also, with any necessary modifications, to finger-impressions.]

COMMENTS

Under the law the court has power to compare signatures /handwriting strengthening its finding based on other cogent material and evidence on record; *Satish Jayanthilal Shah v. Pankaj Mashruwala*, (1997) 2 Crimes 203 (Guj).

Public Documents

74. Public documents.—The following documents are public documents:—

- (1) Documents forming the acts, or records of the acts—
 - (i) of the sovereign authority,
 - (ii) of official bodies and tribunals, and
 - (iii) of public officers, legislative, judicial and executive, ²[of any part of India or of the Commonwealth], or of a foreign country ;
- (2) Public records kept ³[in any State] of private documents.

75. Private documents.—All other documents are private.

76. Certified copies of public documents.—Every ‘public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is true copy of such document or part thereof, as the case may be and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorised by law to make use of a seal ; and such copies so certified shall be called certified copies.

Explanation.—Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

77. Proof of documents by production of certified copies.—Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

78. Proof of other official documents.—The following public documents may be proved as follows:—

- (1) Acts, orders or notifications of ⁴[the Central Government] in any of its departments, ⁶[or of the Crown Representative] or of any State Government or any department of any State Government,—

by the records of the departments, certified by the head of those departments respectively,

or by any document purporting to be printed by order of any such Government ⁶[or as the case may be, of the Crown Representative];

1. Ins. by Act 5 of 1899, sec. 3.

2. The original words “whether of British India, or of any other part of Her Majesty's dominions” have successively been amended by the A.O. 1948 and the A.O. 1950 to read as above.

3. Subs. by the A.O. 1950, for “in any province”.

4. A Village-officer in the Punjab has been declared for the purposes of this Act to be a public officer having the custody of a public document—see the Punjab Land Revenue Act, 1887 (17 of 1887), section 151(2).

5. Subs. by the A.O. 1937, for “the Executive Government of British India”.

6. Ins. by the A.O. 1937.

- (2) the proceedings of the Legislatures,—
by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed ¹[by order of the Government concerned];
- (3) proclamations, orders or regulations issued by ²Her Majesty or by the Privy Council, or by any department of ²Her Majesty's Government,—
by copies or extracts contained in the London Gazette, or purporting to be printed by the Queen's printer;
- (4) the acts of the Executive or the proceedings of the Legislature of a foreign country,—
by journals published by their authority, or commonly received in that country as such or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some ³[Central Act];
- (5) the proceedings of a municipal body in ⁴[a State],
by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body;
- (6) Public documents of any other class in a foreign country,—
by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a Notary Public, or of ⁵[an Indian Consul] or diplomatic agent that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

STATE AMENDMENT

West Bengal :

After section 78, following new section has been inserted:—

78A. Copies of public documents, to be as good as original documents in certain cases.—Notwithstanding anything contained in this Act or any other law for the time being in force, where any public documents concerning any areas within West Bengal have been kept in Pakistan, then copies of such public documents shall, on being authenticated in such manner as may be prescribed from time to time by the State Government by notification in the Official Gazette, be deemed to have taken the place of and to be, the original documents from which such copies were made and all references to the original documents shall be construed as including reference to such copies. *Vide* West Bengal Act No. 29 of 1955 as amended by West Bengal Act No. 20 of 1960, section 3 (w.e.f. 5-1-1961).

Presumptions as to documents

79. Presumption as to genuineness of certified copies.—The court shall presume ⁶[to be genuine] every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by an officer ⁷[of the Central

1. Subs. by the A.O. 1937, for "by order of Government".
2. The words "Her Majesty" stand unmodified *see* the A.O. 1950.
3. Subs. by the A.O. 1937, for "public Act of the Governor General of India in Council".
4. Subs. by the A.O. 1950, for "a Province".
5. Subs. by the A.O. 1950, for "a British Consul".
6. Ins. by the A.O. 1948.
7. The original words beginning from "in British India" and ending with the words "to be genuine" have been successively amended by the A.O. 1937, A.O. 1948 and A.O. 1950 to read as above.

Illustrations

(a) *A*, on his trial before the Court of Sessions, says that a deposition was improperly taken by *B*, the Magistrate. *B* cannot be compelled to answer questions as to this, except upon the special order of a superior court.

(b) *A* is accused before the Court of Sessions of having given false evidence before *B*, a Magistrate. *B* cannot be asked what *A* said, except upon the special order of the superior court.

(c) *A* is accused before the Court of Sessions of attempting to murder a police officer whilst on his trial before *B*, a Session Judge. *B* may be examined as to what occurred.

122. Communications during marriage.—No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married, nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.

123. Evidence as to affairs of State.—No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

124. Official communications.—No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interest would suffer by the disclosure.

125. Information as to commission of offences.—No Magistrate or police officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Explanation.—“Revenue officer” in this section means an officer employed in or about the business of any branch of the public revenue.]

126. Professional communications.—No barrister, attorney, pleader or *vakil* shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney or *vakil*, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment :

Provided that nothing in this section shall protect from disclosure—

(1) any such communication made in furtherance of any ²[illegal] purpose.

(2) any fact observed by any barrister, pleader, attorney or *vakil*, in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.

It is material whether the attention of such barrister, ¹[pleader], attorney or *vakil* was or was not directed to such fact by or on behalf of his client.

1. Subs. by Act 3 of 1887, sec. 1, for the original section 125.

2. Subs. by Act 18 of 1872, sec. 10, for “criminal”.

3. Ins. by Act 18 of 1872, sec. 10.

Explanation.—The obligation stated in this section continues after the employment has ceased.

Illustration

(a) *A*, a client, says to *B*, an attorney—“I have committed forgery and I wish you to defend me”.

As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure.

(b) *A*, a client, says to *B*, an attorney—“I wish to obtain possession of property by the use of forged deed on which I request you to sue”.

This communication, being made in furtherance of a criminal purpose, is not protected from disclosure.

(c) *A*, being charged with embezzlement, retains *B*, an attorney, to defend him. In the course of the proceedings *B* observes that an entry has been made in *A*'s account book, charging *A* with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.

This being a fact observed by *B* in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected disclosure.

127. Section 126 to apply to interpreters, etc.—The provision of section 126 shall apply to interpreters, and the clerks or servants of barristers, pleaders, attorneys, and *vakils*.

128. Privilege not waived by volunteering evidence.—If any party to a suit gives evidence there at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section 126; and if any party to a suit or proceeding calls any such barrister ¹[pleader], attorney or *vakil* as a witness, he shall be deemed to have consented to such disclosure only if he questions such barrister, attorney or *vakil* on matters which, but for such question, he would not be at liberty to disclose.

129. Confidential communications with legal advisers.—No one shall be compelled to disclose to the Court any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.

130. Production of title-deeds of witness not a party.—No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property, or any document by virtue of which he holds a property as pledgee or mortgagee or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

131. Production of documents which another person, having possession, could refuse to produce.—No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last-mentioned person consents to their production.

132. Witness not excused from answering on ground that answer will criminate.—A witness shall not be excused from answering any question as to any

1. Ins. by Act 18 of 1972, sec. 10

(Copy No. 2/2)

S.No. 8-(I)

27

Top Secret
Most Immediate

By speed Post

G-
No. 16(4)/2000-NGO
PRIME MINISTER'S OFFICE

**SOUTH BLOCK,
NEW DELHI-110011.**

Dated: 14th September, 2000.

To

**The Chief Secretary,
Government of West Bengal,
Calcutta.**

(Attention: Shri Aloknath Bhattacharyya, Special
Secretary, Home (Political) Department.)

Sub:- Declassification of records.

Sir,

I am directed to say that Justice Mukherjee Commission of Inquiry has been set up by Government of India to inquire into the alleged disappearance of Netaji Subash Chandra Bose. The Commission have directed various Ministries/Departments of Government of India, including this Office, to produce all files/documents by 26th September, 2000. One of the Top Secret files with Office contains the letter written by the then Chief Minister of West Bengal, Shri P.C. Sen, to the Prime Minister (copy enclosed).

2. It is quite possible that the Government of West Bengal have already taken a view regarding desirability or otherwise of declassifying the above letter and making it available to the Commission of Inquiry. If so, the decision taken may kindly be intimated to this Office urgently. If, however, a view has not yet been taken, you are requested to kindly let us know the views of the Government of West Bengal regarding declassification of the Top Secret letter in question, and making a copy of the same available to the Commission of Inquiry.

3. An early response is requested, keeping in view the fact that files/documents have to be made available to the Commission of Inquiry by 26th September, 2000, positively.

Yours faithfully,

Archana Ranjan
(Archana Ranjan)
Director

*Issued
14/9/2000
4 P.M.*

*2-16(4)/2000-NGO
with Div (A)
14/9*

Attached

**TOP SECRET
MOST IMMEDIATE**

PRIME MINISTER'S OFFICE

Sub:- Declassification of records.

The Government of India has appointed the Justice Mukherjee Commission of Inquiry to inquire into the alleged disappearance of Netaji Subash Chandra Bose. In response to the communication received from the Commission of Inquiry *vide* letter No.JMC/Meeting/48/95, dated 23.5.2000, copy of seven top secret files pertaining to this Office were sent to the Commission with the request that while the Commission may make use of the top secret papers, in camera, they may kindly consider not publishing the same, since these are classified as top secret.

2. The Commission have *vide* their letter dated 6.9.2000 directed this Office to adduce specific reasons as to why privilege is being claimed against the disclosure of the contents of the Top Secret files, more so, when the Commission is holding a public inquiry and its reports will be a public document and contents of these files may have an important bearing. It also appears the Commission has been in touch with the Ministry of Home Affairs, Ministry of External Affairs, Government of West Bengal etc. for production of records relevant to the terms and conditions of the Commission of Inquiry.

3. Copies of the classified communications which originated from your Ministry/Department are enclosed. You are requested to kindly let this Office know immediately the view, if any already taken, regarding their declassification and production before the Commission. If a view is yet to be taken, the same may please be expedited and complete

29

information intimated to this Office latest by the forenoon of 18th September, 2000.

o/c
(Archana Ranjan)
Director

- Copy No. 1. Shri R.D.Choudhury, Director General, National Museum, Janpatrh, New Delhi-110011. *Encl. 3 pages. Upk to JS (Culture)*
- Copy No. 2. Shri P.Mehendru, Joint Director, Intelligence Bureau(MHA), New Delhi. *Encl. 11 pages. By Tomorrow lunch time*
- Copy No. 3. Shri A.K. Paitandy, Director (IS-I), Ministry of Home Affairs. *Encl. 53 pages. Week time*
- Copy No. 4. Shri G.B.Singh, Director, Ministry of Defence, History Division, West Block, No. 8, R.K.Puram, New Delhi-110066. *Encl. 2 pages. 34(MI) Lt Gen 03 Lokchab. 3373250(0) 201610(0)*
- Copy No. 5. Shri Ravi Mittal, Director, Cabinet Secretariat, New Delhi. *Encl. 24 pages. Home MHA - TS -*
- Copy No. 6. Shri Thomas, SO(NGO) Ministry of External Affairs. *Encl. 100 pages*

PMO U.O.No.16(4)/2000-NGO dated 14.9.2000.

15

*Copy No. 7/8 issued along with letter to
to Sh. Jayant Prasad 55 (CIV)
MEA, on 19/9/2000.
19/9*

S. Sanyamiti, JS, Culture

प्र.मं.का. (एन.जी.ओ.)/PMO (NGO)
जारी/Issued.....
दिनांक/Date.....
COPY NO. 11/8-10 6/8 only

Sl No. 10 (Issue)

30

Top Secret
Most Immediate

D.O.No.16(4)/2000-NGO

September 19, 2000

Dear

A copy of this Office UO of even number dated 14/15.9.2000 which was sent to Shri Thomas, Section Officer(NGO), Ministry of External Affairs, regarding declassification of records made available to Justice Mukherjee Commission of Inquiry, appointed by Government of India to enquire into alleged disappearance of Netaji Subhash Chandra Bose, is enclosed (Copy No.7/8- without enclosures). The communication was sent to Shri Thomas in your absence.

2. We shall be grateful for a very quick response, as we have to respond to the communication received from the Commission well before the next date of hearing fixed for 26.9.2000 positively.

Yours sincerely,


(Archana Ranjan)

Shri Jayant Prasad,
Joint Secretary(CNV),
Ministry of External Affairs,
Room No. 163, 1st Floor,
South Block,
New Delhi-110011.

Issued with Encl
(Copy no 7/e)
86
19/9/2000



TOP SECRET

Sens II (R)

राष्ट्रीय संग्रहालय
NATIONAL MUSEUM

Dr. R.D. Choudhury
Director General

D.O.NO.F.DGNM-2/2000

September 16, 2000

Dear Mrs. Ranjan,

Kindly refer to your letter No.16(4)/2000-NGO, dated 14th/15th September, 2000 regarding declassification of records.

In this context I would like to inform you that in consultation with Department of Culture, Ministry of Tourism & Culture, which is our administrative Ministry, we shall let you know regarding the decision to declassify the record in question.

With regards,

Yours sincerely,

(R.D. Choudhury)

Mrs. Archana Ranjan
Director
Prime Minister Office
New Delhi

प्र.मं.का. (एन.जी.ओ.)/PMO (NGO)
ड. नं./Dy. No. 346/TS/2000
दिनांक/Data..... 18/9/2000
20/10/00 (TS)/TS/2000

32

TOP SECRET
MOST IMMEDIATE

S. No. 12 (R)

Tele: 6102067

No. 2191/NIC/H/99

18 Sep 2000

MINISTRY OF DEFENCE
(History Division)

SUBJECT: DECLASSIFICATION OF RECORDS

Reference PMO UO No. 16(4)/2000-NGO dated 14/15.9.2000.

2. All the records (990 files) relating to INA held by this office have been declassified and transferred to National Archives of India, Janpath, New Delhi on 26 August, 1997. A complete list of these records has been forwarded to the Justice Mukherjee Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

3. The matter relating to DMI/5118/135/GSI (e) GHQ India is being referred to DGMI AHQ, the originator, for appropriate action in the matter. PM's Office will be informed immediately after we receive a reply from them.

19/9
us (NGO) [Signature]

[Signature]
(G.B. Singh)
Director

Ms. Archana Ranjan
Director
PM's Office,
South Block,
New Delhi-110011

प्र.सं.का. (एन.सी.ओ.)/PMO (NGO)
क्र. सं./Dy. No. 397/Ts/2000
दिनांक/Data..... 20/9/2000

21/10/2000 TS/ [Signature]

S.No. 13 (R)

SECRET/MOST IMMEDIATE

33

**CABINET SECRETARIAT
RASHTRAPATI BHAVAN**

.....

Subject:- Declassification of records.

.....

Kind reference is invited to PMO UO No. 16(4)/2000-NGO dated 15.9.2000, on the above subject.

2. The background notes for consideration of the Cabinet on 'Proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India' (dated 2.2.1995), 'Fresh inquiry into disappearance of Netaji Subhas Chandra Bose in 1945 - Demand for' (dated 18.2.1970) and the Core Group on 'Controversy about Netaji's death and allegations that he was an MI-6 Agent' (dated 16.5.1994) were received from MHA.

3. The minutes will have the same grading as the notes which have originated from MHA. This Secretariat has no objection to whatever grading MHA may wish to give these background papers. It is, therefore, for MHA to decide the grading of these papers.

18/9

(Ravi Mital)
Director.

19/9
hs (info)

PMO. [Ms. Archana Ranjan, Director].

Cabinet Secretariat ID Note No. 281/12/1/2000-TS dated 18.9.2000.

प्र.सं.का. (एन.जी.ओ.)/PMO (NGO)

क्र.सं./Dy. No. 642/5/2000

दिनांक/Data 20/9/2000

S.M. 14 (R)

34

TOP SECRET
MOST IMMEDIATE

Ministry of External Affairs
NGO SECTION

Please refer to PMO U.O. No. 16(4)2000-NGO dated 14.09.2000 regarding view taken by this Ministry in regard to documents originating in this Ministry required by Justice Mukherjee Commission, inquiring into the alleged disappearance of Netaji Subhas Chandra Bose.

As regards copies of papers originating from this Ministry enclosed with the above note are concerned, this Ministry have no objection for these to be declassified to 'confidential'. As to which of these may be made public, if any, we may have to leave to the discretion of the Commission. As regards documents being produced before the Commission by this Ministry, we intend to take the same stand.

down grade

(JAYANT PRASAD)
Joint Secretary (CNV)
Tel. No. 3011357

Ms Archana Ranian, Director, PM's Office, South Block, New Delhi.

MEA: **U.O.No.25/4/NGO Vol. V dated September 19, 2000.**

प्र.सं.का. (एन.जी.ओ.)/PMO (NGO)
डाय. नं./Dy. No. 3.9.8. TS/2000
दिनांक/Data 20/9/2000

22/DI(A)/TS/2000
20/9

Copy No. 7/7

S.No. 15(I)

TOP SECRET
MOST IMMEDIATE
TIME BOUND

PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011.

Subject:- Justice Mukherjee Commission of Inquiry appointed to
enquire into alleged disappearance of Netaji Subhash
Chandra Bose- Declassification of records.

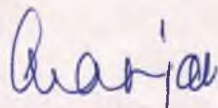
Reference is invited to this Office U.O. of even number date
14th/15th September, 2000, on the subject mentioned above.

2. Keeping in view the fact that the next date of hearing of the Commission has been fixed on 28.9.2000, by which date the stand of the Government in the matter of claiming privilege regarding classified documents contained in this Office classified files, copies of which have already been made available to the Commission, is to be made known to the Commission, it has now been decided that the Ministry/Department/Agency concerned, should take a decision regarding the desirability or otherwise of the references originating from their respective Ministry/Department/Agency (copies were sent alongwith our U.O. dated 14th/15th September, 2000) and convey it to the Commission, direct, at the following address, under intimation to this Office:-

Shri P.K. Sengupta,
WBHJS(Retd.)
Secretary,
Justice Mukherjee Commission of Inquiry,
'B' Block (Ythird Floor),
11/A, Mirza Ghalib Street, CALCUTTA-700087.

2. It is requested that early action may kindly be taken in

the matter, under intimation to this Office.


(ARCHNA RANJAN)
DIRECTOR
Tel.No.301393

Shri R.D.Choudhury, Director General, National
Museum, Janpath, New Delhi-110011.

Shri P.Mahendru, Jt. Director, IB(MHA) New Delhi.

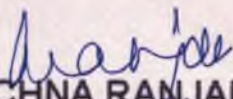
Shri A.K.Paitandy, Director (IS-I) MHA (alongwith a copy of the reply
sent by Cab. Sectt)

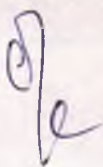
Shri G.B.Singh, Director, M/Defence, History Division, West Block
No,8,R.K.Puram, New Delhi-110066.

Shri Ravi Mittal, Director, Cabinet Secretariat, New Delhi.

P.M.O.U.O.No.G.16(4)/2000-NGO dated: 21 -9-2000.

Copy for information to Shri Jayant Prasad,
JS(CNV)M/External Affairs, South Block, New Delhi, w.r. to MEA
U.O.No.25/4/NGO (Vol.V) dated 19.9.2000.


(ARCHNA RANJAN)
DIRECTOR.



Issued
21/9/2000
2.40 PM.

Copy No. 2/2

S.No. 16 (I)

37

TOP SECRET
TIME BOUND

NO.G.16(4)/2000-NGO
PRIME MINMISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011.

Dated: 21 September, 2000.

To

The Chief Secretary,
Government of West Bengal,
Calcutta.

(Attention : Shri Aloknath Bhattacharyya, Special
Secretary, Home (Political) Department.)

Subject:- Declassification of record.

Sir,

I am Directed to refer to this Office letter of even number dated 14.9.2000, on the subject mentioned above and to say that keeping in view the fact that the next date of hearing of the Commission has been fixed on 26.9.2000, and the Commission has already directed, among others, the Government of West Bengal, to produce some records before it, the Government of West Bengal may please convey their views/stand regarding declassification and making public the letter (copy of which had been enclosed with this Office letter of 14.9.2000) to the Commission, direct, under intimation to this Office.

Yours faithfully,

8/
(ARCHNA RANJAN)
DIRECTOR

Issued
8/9/2000
2.40 PM.

Serial 17 (Receipt)

38

TOP SECRET

INTELLIGENCE BUREAU
(Government of India)

Sub: **Declassification of Records**

Reference is invited to PMO UO No. 16(4)/2000-NGO dated September 14/15, 2000 on the above subject.

2. The seven documents along with their enclosures, all currently classified as 'Secret', enclosed with the above-mentioned UO note have been examined at our end. There is no objection from the security angle to their being declassified. PMO may like to take further action in the matter.

27/9
US (NGO)
urgent
Re put up on file
25/9

27/9/2000
(P. Mehendru)
Joint Director

2157

PMO (Ms. Archana Ranjan, Director)

IB U.O. No. III-6(1)/2000(2)- 10598

dated September 22, 2000

प्र.सं.का. (एन.जी.ओ.)/PMO (NGO)
क्र.सं./Dy. No. 106-175/2000
दिनांक/Date 25/9/2000
23/10/2000
22/9/

DATE, TIME
FOL. NO. / NAME
LOCATION
E(S)
ULT
E

MISSION VERIFICATION REPORT

TIME : 25/09/2000 17:41
NAME :
FAC :
TEL :

25/09 17:41
0352 67 765
00:00:54
01
57.00463

Sr no. 18 (Receipt)

39

MOST IMMEDIATE

By Speed Post

No.G.16(4)/2000-NGO
PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011.
Dated:25.9.2000-09-25

To

Shri P.K.Sengupta.WBHJS(Retd.),
Secretary,
Justice Mukherjee Commission of Inquiry,
'B' Block(Third Floor),11 A,Mirza Ghalib Street,
CALCUTTA-700067.

Subject:-Justice Mukherjee Commission of Inquiry appointed
to enquire into alleged disappearance of Netaji
Subhash Chandra Bose-Declassification of record.

Sir,

*File with
for action*
✓ (R/p 25/9/00)
In continuation of this Office letter No. 915/11/C/2/2000-Pol-Vol.I,
dated 24.9.2000, enclosing the Affidavit on behalf of the Prime
Minister's Office, in connection with the above subject matter, I am
directed to inform that since the signing / despatch of the
aforementioned Affidavit, the Intelligence Bureau have informed this
Office that there is no objection to the seven communications
available on the files sent by this Office to the Commission, being
declassified. It has accordingly ^{de-}been decided that the IB
communications may be treated as ^{de-}classified and that there is no
objection to these communications being made public by the
Commission, if necessary. As already mentioned in the Affidavit of
this Office sent on 24.9.2000, other Departments have been
requested to inform the Commission, direct, of their views about
declassification of their communications available on PMO Files,
copies of which are already available with the Commission.

Yours faithfully,

(SUNIL JAIN)
DIRECTOR

*Issued
25/9/2000
5-25 pm.*

*Copy given to VSP (201)
R250*

1
be keep it on
our Justice Mukherjee
Commissioning file
27/11

(21)

(40)

SECRET
MOST IMMEDIATE

PRIME MINISTER'S OFFICE

Subject: Declassification of records.

The Government of India has appointed the Justice Mukherjee Commission of Inquiry to inquire into the alleged disappearance of Netaji Subash Chandra Bose. In response to the communication received from the Commission of Inquiry Vide letter No. JMC Meeting 48/95, dated 23.5.2000, copy of seven top secret files pertaining to this Office were sent to the Commission with the request that while the Commission may make use of the top secret papers, in camera, they may kindly consider not publishing the same, since these are classified as top secret.

2. The Commission have Vide their letter dated 6.9.2000 directed this Office to adduce specific reasons as to why privilege is being claimed against the disclosure of the contents of the Top Secret files, more so, when the Commission is holding a public inquiry and its report will be a public document and contents of these files may have an important bearing. It also appears the Commission has been in touch with the Ministry of Home Affairs, Ministry of External Affairs, Government of West Bengal etc. for production of records relevant to the terms and conditions of the Commission of Inquiry.

.....2-

P-9-1072

to keep it on
our Justice Mukherjee
Commissioning file
m/c

(21)

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SECRET
MOST IMMEDIATE

PRIME MINISTER'S OFFICE

Subject: Declassification of records.


The Government of India has appointed the Justice Mukherjee Commission of Inquiry to inquire into the alleged disappearance of Netaji Subash Chandra Bose. In response to the communication received from the Commission of Inquiry Vide letter No. JMC Meeting 48/95, dated 23.5.2000, copy of seven top secret files pertaining to this Office were sent to the Commission with the request that while the Commission may make use of the top secret papers, in camera, they may kindly consider not publishing the same, since these are classified as top secret.

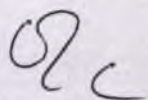
2. The Commission have Vide their letter dated 6.9.2000 directed this Office to adduce specific reasons as to why privilege is being claimed against the disclosure of the contents of the Top Secret files, more so, when the Commission is holding a public inquiry and its report will be a public document and contents of these files may have an important bearing. It also appears the Commission has been in touch with the Ministry of Home Affairs, Ministry of External Affairs, Government of West Bengal etc. for production of records relevant to the terms and conditions of the Commission of Inquiry.

.....2-


8-9-10/2

3. Copies of the classified communications which originated from your Ministry Department are enclosed. You are requested to kindly let this Office know immediately the view, if any already taken regarding their declassification and production before the Commission. If a view is yet to be taken, the same may please be expedited and complete information intimated to this Office latest by the forenoon of 18th September, 2000.


[Archana Ranjan]
Director

1. Secretary, Ministry of Urban Development
 2. Secretary, Deptt. of Economic Affairs
 3. Secretary, Ministry of Information & Broadcasting
 4. Secretary, Deptt. of Food and Public Distribution
- 

PMOU.O. No. 915/11/C/2/2000-Pol (Vol. 1) dated: Sept. 15, 2000

Issued (w.e.)

15.9

22

42

SECRET
MOST IMMEDIATE

No. 915/11 C / 2 2000-PGI(V-41)
PRIME MINISTER'S OFFICE

Dt. 15.9.2000

To

The Chief Secretary,
Government of Orissa,
Bhubaneswar.

Subject: Declassification of records

Sir,

I am directed to say that Justice Mukherjee Commission of Inquiry has been set up by Government of India to inquire into the alleged disappearance of Netaji Subash Chandra Bose. The Commission have directed various Ministries Departments of Government of India, including this Office, to produce all files documents by 26th September, 2000. Some of the Secret files with Office contain the letters written by the Chief Minister, Orissa to the Prime Minister (copies enclosed).

2. It is quite possible that the Government of Orissa have already taken a view regarding desirability or otherwise of declassifying these letters and making it available to the Commission of Inquiry. If so, the decision taken may kindly be intimated to this Office urgently. If, however, a view has not yet been taken, you are requested to kindly let us know the views of the Government of Orissa regarding declassification of the Secret Confidential letters in question, and making a copy of the same available to the Commission of Inquiry.

3. An early response is requested, keeping in view the fact that files documents have to be made available to the Commission of Inquiry by 26th September, 2000, positively.

Yours faithfully,

[Signature]

[Archana Ranjan]
Director

Issued (w.c.)
[Signature]
15/9

P-9-10/N

23

43

No. 915/11/C/2/2000 (M I) SECRET
MOST IMMEDIATE
PRIME MINISTER'S OFFICE

To

The Chief Secretary,
Government of West Bengal,
Calcutta.

Dt. 15.9.2000

(Attention : Shri Aloknath Bhattacharyya, Special
Secretary, Home (Political) Department)

Subject: Declassification of records

Sir,

I am directed to say that Justice Mukherjee Commission of Inquiry has been set up by Government of India to inquire into the alleged disappearance of Netaji Subash Chandra Bose. The Commission have directed various Ministries Departments of Government of India, including this Office, to produce all files documents by 26th September, 2000. Some of the Secret files with Office contain the letters written by the Chief Minister, West Bengal to the Prime Minister (copies enclosed).

2. It is quite possible that the Government of West Bengal have already taken a view regarding desirability or otherwise of declassifying these letters and making it available to the Commission of Inquiry. If so, the decision taken may kindly be intimated to this Office urgently. If, however, a view has not yet been taken, you are requested to kindly let us know the views of the Government of West Bengal regarding declassification of the Secret Confidential letters in question, and making a copy of the same available to the Commission of Inquiry.

3. An early response is requested, keeping in view the fact that files documents have to be made available to the Commission of Inquiry by 26th September, 2000, positively.

Yours faithfully,

Archana Ranjan
[Archana Ranjan]
Director

Issued (w.c.)
[Signature]
15.9

2-9-10/2

44

SECRET

TIME BOUND

No.915/11/C/2/2000-Pol (Vol-I)

PRIME MINISTER'S OFFICE

SOUTH BLOCK

NEW DELHI-110011

Dated: 22 September, 2000

To:

The Chief Secretary,
Government of Orissa
Bhubneswar.


Subject: **Declassification of records**

Sir,

I am directed to refer to this Office letter of even number dated 15.9.2000. on the subject mentioned above and to say that keeping in view the fact that the next date of hearing of the Commission has been fixed on 28.9.2000. the Government of Orissa may please convey their views stand regarding declassification and making public the letter (copies of which had been enclosed with this Office letter of 15.9.2000) to the Commission. direct. at the following address, under intimation to this Office:

Shri P.K. Sengupta. WBHS(Retd.)
Secretary.
Justice Mukherjee Commission of Inquiry
'B' Block (Third Floor).
11 A. Mirza Ghalib Street. Calcutta-700087

Yours faithfully,

 | Archana Ranjan |
Director

Issued.
22/9.

45

SECRET
MOST IMMEDIATE
TINE BOUND

PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011

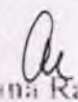
Subject: Justice Mukherjee Commission of Inquiry appointment to enquire into alleged disappearance of Netaji Subhash Chandra Bose- Declassification of record.

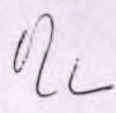
Reference is invited to this Office U.O. of even number dated 15th September, 2000, on the subject mentioned above.

2. Keeping in view the fact that the next date of hearing of the Commission has been fixed on 28.9.2000, by which date the stand of the Government in the matter of claiming privilege regarding classified documents contained in the this Office classified files, copies of which have already been made available to the Commission, is to be made known to the Commission, it has now been decided that the Ministry/Department/Agency concerned, should take a decision regarding the desirability or otherwise of the references originating from their respective Ministry/Department/Agency (copies were sent along with our U.O. dated 15th September, 2000), and convey it to the Commission, direct, at the following address, under intimation to this Office:-

Shri P.K. Sengupta, WBHS(Rtd.)
Secretary,
Justice Mukherjee Commission of Inquiry
'B' Block(Third Floor),
11 A, Mirza Ghalib Street, Calcutta-700087

2. It is requested that early action may kindly be taken in the matter, under intimation to this Office.


[Archana Ranjan]
Director
Tel. No.361393


Secretary, Deptt. of Economic Affairs
Secretary, Deptt. of Food and Public Distribution.
PMO U.O. No. 1511 C 2 2000-Pol Vol.I dated 22.9.2000

Issued.
22/9.

PRIME MINISTER'S OFFICENo. 915/11/C/2/2000-Pol.21st September, 2000

To,

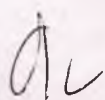
Shri P.K. Sengupta, WBHIS (Retd.),
Secretary,
Justice Mukherje Commission of Inquiry,
'B' Block (3rd Floor),
11/A Mirza Ghalib Street,
Calcutta - 700087.

Sir,

I am directed to refer to your letter No. JMCI Records ND 99-2000 37 230 dated 25.8.2000 4.9.2000 and to state that no order as such regarding destruction of files documents could be located. However the relevant page of the File Register showing destruction of the file in 1972 is enclosed. There is also a note at p.151 C of File No. 2(64) 56-70-PM (Vol.V) about the destruction of the file in question. (photo-copy of the file has already been sent to JMCI vide letter of even number dated 4.7.2000). A copy of the page is enclosed for ready reference.

2. As regards destruction of documents while recording the File No. 23(156) 51-PM a copy of the documents destroyed has been kept in that file (photo-copy of the file has already been sent to the Commission vide letter of even number dated 4.7.2000).

Yours faithfully,




(Archana Ranjan)
Director

21/9

File No.

Subject.

Date of recording.

(2)
47

12(204)/56-PM	Ratification of the Treaty of Cession of the French Establishments of Pondicherry, Karikal, Mahe and Yanam.	12.4.1957.
12(205)/56-PM	National Film Board and Film Finance Corporation - Establishment of.	-do-
12(206)/56-PM	Construction of a Hotel in the Diplomatic Enclave by Ashoka Hotels Ltd.	<i>Carried over to 1957</i> -do-
12(209)/56-PM Vols. I & II.	Industrial Relations Bill, 1954.	-do-
12(210)/56-PM	National Book Trust - Establishment of an Autonomous.	-do-
12(211)/56-PM	Construction of a Central Conference Hall in New Delhi.	-do-
12(212)/56-PM	Law relating to Copyright-Legislation for amending and consolidating the	-do-
12(215)/56-PM	Indian Citizenship Bill.	-do-
12(219)/56-PM	Monetary Reward to the workers of Sindhri Fertilizer Factory.	-do-
12(223)/56-PM	Coal Miners - New Housing Scheme for-	-do-
12(225)/56-PM	Indian Delegation to H.R.H. the Duke of Edinburgh's Conference on the social responsibility of Industry.	-do-
12(226)/56-PM	Investigation into the circumstances leading to the death of Shri Subhash Chander Bose.	<i>16-3-72</i> -do-
12(229)/56-PM	Loan of Rs. 1.45 crores granted by the U.P. Govt. to M/S Sahu Jain Ltd. for a Soda Ash and Ammonium Chloride factory in U.P. - objection raised by the Central Govt. about the grant of -	<i>16/11/71</i> -do-
12(230)/56-PM	Continuance of grants in-aid granted under article 278 of the Constitution to the Part 'B' States after the re-organisation of States.	-do-
12(231)/56-PM	Provision for arbitration in disputes arising out of contracts placed by the Directorate General of Supplies and Disposals for purchase of stores.	-do-

There is no file on the subject this is in Political Section.

OK

227

3/27

AG

P.H.

The only files available in this Section, on the subject are placed below. There was another file bearing No. 12/226/56-800 with the subject "Investigation into the circumstances leading to the death of 'Spur Salazar Chiriqua Bar' but this was destroyed on 6-3-72 during the process of weeding.

SSA

(Vol. I & II only of this file which contain papers pertaining to the subject)

No.915/11/C/2/2000-Pol (Vol.II)
PRIME MINISTER'S OFFICE
South Block
New Delhi-110011

Dated September 22, 2000

To

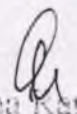
Shri P.K. Sengupta, WBHS(Retd.)
Secretary,
Justice Mukherjee Commission of Inquiry
'B' Block(Third Floor),
11 A, Mirza Ghalib Street, Calcutta-700087

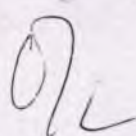
Subject: Compliance with the orders/directions
contained in the proceedings dated 31.8.2000
read with the proceeding dated 23.3.2000 and
13.6.2000 of Justice Mukherjee Commission
of Inquiry.

Sir,

I am directed to refer to your letter
No.JMC1 Meeting-Proceedings (Follow-up) 48(Vol.II) 243(5)
dated 6.9.2000 on the above mentioned subject and to
enclose an affidavit duly verified by the Notary Public on
behalf of the Prime Minister's Office.

Your faithfully,


[Archana Ranjan]
Director



ent (ent)
22/9

5

BEFORE THE HONOURABLE JUSTICE MUKHERJEE
COMMISSION OF INQUIRY AT CALCUTTA

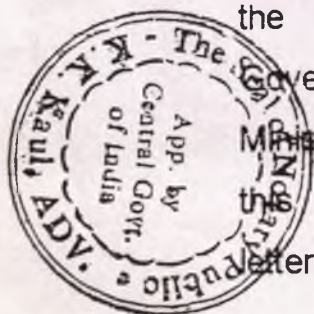
IN THE MATTER OF COMPLIANCE WITH THE
ORDERS/DIRECTIONS OF THE COMMISSION AS PASSED IN
THE PROCEEDINGS HELD ON 31.8.2000 AT CALCUTTA.

AFFIDAVIT

I, Pradip Kanti Roy , son of Shri Praphulla Kumar Roy, working as Under Secretary in the Prime Minister's Office, do solemnly affirm and state as under:

1) That in so far as documents/ Notes which originated from the PM's Office on the files already forwarded to the Commission are concerned, these may be treated as declassified to confidential. It is left to the discretion of the Commission to make all/any of these documents, public.

2) That so far as the classified letters/references which originated from the other Ministries/Departments, like the National Museum, the Ministry of External Affairs, Ministry of Home Affairs, Ministry of Defence, Ministry of Urban Development, Department of Economic Affairs, Ministry of Information & Broadcasting, Department of Food & Public Distribution, Cabinet Secretariat, intelligence Bureau, and Governments of West Bengal and Orissa, are concerned, since the declassification of those references/letters can only be done, as per the extant instructions, with the concurrence of the concerned Ministries/Departments/State Governments, reference has already been made to the concerned Ministries/Departments/State Govts. on 14/15th September, 2000, to let this Office have their views regarding the declassification of the letters/references for apprising the Commission about the justification or



[Signature]

otherwise of declassification of classified records for use by the Commission. So far, while the Ministry of External Affairs have conveyed their no objection to their references being declassified to confidential, the Ministries of Urban Development and Information & Broadcasting have conveyed that their documents have been declassified. The Ministry of External Affairs have also conveyed that they leave it to the discretion of the Commission as to which of these documents may be made public, if any. With regard to the other documents which are to be produced by the Ministry of External Affairs before the Commission, that Ministry would convey their stand to the Commission, directly. This Office has no objection to the documents which originated from the Ministries of I&B and Urban Development being declassified and made public. The remaining Ministries/Departments have been requested to convey their stand to the declassification of documents pertaining to them, and to communicate with the Commission, directly.

3) That with regard to file No.12(226)/56-PM, which contained Agenda Paper/Cabinet decision regarding "Investigation into the circumstances leading to the death of Shri Subash Chandra Bose", it may be mentioned that as per the record in this Office, it was destroyed in 1972 in the course of routine review/weeding out of old records. Photocopies of two notes relating the destruction of the file are at Annexure-1 & 1A, respectively. It is further certified that no copy of the file was retained in this office at the time of its destruction.

4) That certain documents of file No.23(156)/51-PM required by the Commission were destroyed while recording that file in 1969. The list of papers destroyed are already available in that file. No copy of the file was retained in this office.

That the file (No.2(381)/60-66-PM) opened in 1960, dealing with the proposal to bring Shri Subash Chandra Bose's ashes from Tokyo and to put up a memorial to him in front of the Red Fort in Delhi, is not traceable. Renewed efforts are being made to trace the same. As soon as the file is traced, this Office would get in touch with the Commission.

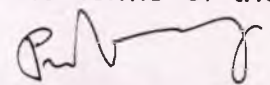


A handwritten signature in black ink, appearing to be "P. V. J." or similar, located at the bottom right of the page.

6) That file No.2(64)66-70-PM (Vol-VI) regarding death of Netaji Subash Chandra Bose - Appointment of an Enquiry Committee to go into circumstances of Death, is also not traceable in this Office. Renewed efforts are being made to locate the file. early. As soon as the file is traced, this Office would get in touch with the Commission.

7) That with regard to Sr. Nos.5 of File No.G.12(3)/98/NGO and Sl.No.127A of file No.2(64)56-66-PM (Vol.II), it may be stated that although the letters have been marked as Confidential and Secret, respectively, these may be treated as declassified since these two letters had originated from private individual/party, and it is not possible, at this stage, to get in touch with them to get their concurrence for declassification of these letters. This office has no objection to the disclosure of the contents of these two letters also by the Commission.

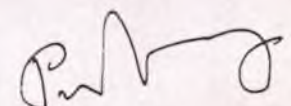
8) That there are no other files with this Office, other than already sent to the Commission or mentioned above, relevant to the terms of the Commission.


Deponent

Verification

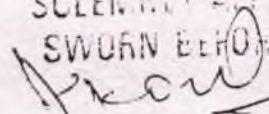
I, Pradip Kanti Roy, declare and affirm that what is stated above is true to my knowledge. No part of this Affidavit is false and nothing material has been concealed.

Verified at New Delhi on 22nd September, 2000.


Deponent

Identify the deponent who has signed/put T.I. in my presence.

Pradip Kanti Roy
Prime Minister's Office
South Block
New Delhi

SOLEMNLY AFFIRMED
SWORN BEFORE ME AT NEW DELHI

NOTARY PUBLIC
N.C.T. OF N. DELHI

22 SEP 2000



Annexure 12
53

<u>File No.</u>	<u>Subject.</u>	<u>Date of recording.</u>
12(204)/56-PM	Ratification of the Treaty of Cession of the French Establishments of Pondicherry, Karikal, Mahe and Yanam.	12.4.1957.
12(205)/56-PM	National Film Board and Film Finance Corporation - Establishment of.	-do-
12(206)/56-PM	Construction of a Hotel in the Diplomatic Enclave by Ashoka Hotels Ltd.	Cancelled over to 1957. -do-
12(209)/56-PM Vols. I & II.	Industrial Relations Bill, 1954.	Destroyed on 6.10.71. -do-
12(210)/56-PM	National Book Trust - Establishment of an Autonomous.	Destroyed on 21.1.72. -do-
12(211)/56-PM	Construction of a Central Conference Hall in New Delhi.	Recorded - C 345. RA -do-
12(212)/56-PM	Law relating to Copyright-Legislation for amending and consolidating the	Destroyed on 21.1.72. -do-
12(215)/56-PM	Indian Citizenship Bill.	Destroyed on 8.10.71. -do-
12(219)/56-PM	Monetary Reward to the workers of Sindhri Fertilizer Factory.	-do-
12(223)/56-PM	Coal Miners - New Housing Scheme for-	Destroyed on 21.10.71. -do-
12(225)/56-PM	Indian Delegation to H.R.H. the Duke of Edinburgh's Conference on the social responsibility of Industry.	Destroyed on 8.10.71. -do-
12(228)/56-PM	Investigation into the circumstances leading to the death of Shri Subhash Chander Bose.	Destroyed on 6.3.72. -do-
12(229)/56-PM	Loan of Rs. 1.45 crores granted by the U.P. Govt. to M/S Sahn Jain Ltd. for a Soda Ash and Ammonium Chloride factory in U.P. - objection raised by the Central Govt. about the grant of -	Recorded - C 3. RA -do-
12(230)/56-PM	Continuance of grants in-aid granted under article 278 of the Constitution to the Part 'B' States after the re-organisation of States.	Destroyed on 8.10.71. -do-
12(231)/56-PM	Provision for arbitration in disputes arising out of contracts placed by the Directorate General of Supplies and Disposals for purchase of stores.	Destroyed on 8.10.71. -do-

Handwritten signature

on the subject, the
Political Section

SECRET

U.S. 227

1/17

2

P.M.

The only files available on
this Section in the subject's place
below. There was another file bearing
No. 12/226/56, which the subject
investigation into the circumstances leading
to the death of "The Sallah's Case"
but this was destroyed on 6-1-57 during
the process of unloading.

SSA (Vol. I & II) of the file which contain
information on the subject.

Part 2

Most Immediate/By Hand

Tele:6102067

Sl no 19 (Receipt)

(55)

NO.2191/NIC/H/99

26 Sep 2000

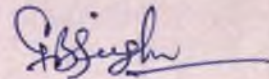
MINISTRY OF DEFENCE
(History Division)

Sl. No 15
(Pg. 35-36/cd)

SUB : DECLASSIFICATION OF RECORDS

Reference is invited to the PMO U.O. No. G 16(4) 2000-NGO dated 21.09.2000.

2. It is stated that the DGMI. originator of the letter has intimated that the document No. DMI/5118/135/GS/(e) dated 07.10.1943 could be treated as unclassified. You are requested to intimate the Commission accordingly.



(G.B. Singh)
Director

Ms. Archana Ranjan
Director
PM's Office
South Block,
New Delhi-110011

26/9
us(NGO)
le. put up on file
27/9

प्र.सं.का. (एन.ज.सी.)/PMO (NGO)
सं. 75/Dy. No. 188/6/2000
दिनांक/Date 26/9/2000

Dir. (J)'s Office
Dy. No 2180/6
Date 26-9-00

Sl no 20 (1854)

56

MOST IMMEDIATE

(X) BY FAX/SPEED POST

No.G.16(4)/2000-NGO
PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011.

Dated:27.9.2000.

(X) Could not
be faxed on
27.9.00 as line
was not found
clear.
28/9/00

To

Shri P.K. Sengupta,
WBHJS(Retd.),
Secretary,
Justice Mukherjee Commission of Inquiry,
'B' Block,(Third Floor),
11/A,Mirza Ghalib Street,
CALCUTTA-700 087.

Subject:- Justice Mukherjee Commission of Inquiry appointed to
enquire into alleged disappearance of Netaji Subhash
Chandra Bose - Declassification of record.

Sir,

I am directed to refer to this office letter of even number dated
25.9.2000, on the above subject, and to enclose a copy of letter
No.2191/NIC/H/99 dated 26.9.2000, addressed by Shri G.B. Singh,
Director, Ministry of Defence(History Division), to Ms Archana
Ranjan, Director in this Office, regarding declassification of DGM
document No.DMI/5118/135/GS/(e) dated 07.10.1943, for your
information/ record. The above document may please be treated as
declassified and there is no objection to make it public, at the
discretion of the Commission.

Yours faithfully,

R.P. Singh
(R.P.SINGH)
DIRECTOR.

Issued
with Encl.

89
27/9/2000
5.10 PM.

Spy to us (bal)

Sl no 21 (Receipt)

57

SECRET/AT ONCE

**CABINET SECRETARIAT
RASHTRAPATI BHAVAN**

Subject:- Justice Mukherjee Commission of Inquiry – Declassification of records.

Reference is invited to PMO UO No. G.16(4)/2000-NGO dated 21.9.2000, on the above subject.

2. The documents of Cabinet Secretariat forwarded to the Commission by the PMO are:-

- MM A by 2
already cleared
privilege
- i) Cabinet Meeting Notice No. 6/CM/95(iii) dated 6.2.1995. X
ii) Background note No. I/12014/27/93-IS.(D.III) dated 2.2.1994 received from MHA. (2-2-95)
iii) Record note of discussion of the meeting held on 20.7.1994 regarding 'Controversy about Netaji's death and allegations that he was an MI-6 agent'. X
iv) Background note on 'Controversy about Netaji's death and allegations that he was an MI-6 agent' received from MHA vide OM No. I/12014/27/93-IS.(D.III) dated 17.5.1994. X
v) Cabinet Secretariat UO No. 13/CM/70 dated 24.2.1970 forwarding Cabinet note on 'Fresh inquiry into disappearance of Netaji Subhas Chandra Bose in 1945 - Demand for', received from MHA. X
- Privilege already cleared by PMO ✓

3. It is requested that MHA may take appropriate action regarding declassification, downgrading of security classification or otherwise of documents mentioned at (ii) & (iv) above. MHA may also take a similar decision in respect of background note sent by them in regard to (iii) and the Cabinet note in regard to (v) above. The grading of letters at (i), (iii) & (v) above will be identical to the background notes.

4. Urgent necessary action may please be taken to inform the Commission as per PMO's request.

Sd/-
(J.P. Prakash)
Director.

MHA. [Shri A.K. Paitandv. Director].

Cabinet Secretariat ID Note No. 281/12/1/2000-TS dated 26.9.2000.

✓ Copy to Ms. Archana Ranjan, Director, PMO.

J.P. Prakash
(J.P. Prakash)
Director.

प्र.सं.का. (एन.बी.ओ.)/PMO (NGO)
क्र. 70/Dy. No. 672/5/2000
दिनांक/Date 27-9-2000

26/9
US(NE) 11/14
919/2-JP

TRANSMISSION VERIFICATION REPORT

TIME : 09/2000 15:30
NAME :
FAX :
TEL :

DATE, TIME	26/03 15:28
FAX NO. / NAME	0332 62765
DURATION	00:01:55
PAGE(S)	02
RESULT	OK
CHECK READABILITY OF TRANSMITTED PAGE(S)	01
MODE	STANDARD

58

MOST IMMEDIATE

BY FAX/SPEED POST

No.G.16(4)/2000-NGO
PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011.

Dated:27.9.2000.

To


Shri P.K. Sengupta,
WBHJS(Retd.),
Secretary,
Justice Mukherjee Commission of Inquiry,
'B' Block,(Third Floor),
11/A,Mirza Ghalib Street,
CALCUTTA-700 087.

Subject:- Justice Mukherjee Commission of Inquiry appointed to
enquire into alleged disappearance of Netaji Subhash
Chandra Bose - Declassification of record.

Sir,

I am directed to refer to this office letter of even number dated 25.9.2000, on the above subject, and to enclose a copy of letter No.2191/NIC/H/99 dated 26.9.2000, addressed by Shri G.B. Singh, Director, Ministry of Defence(History Division), to Ms Archana Ranjan, Director in this Office, regarding declassification of DGM I document No.DMI/5118/135/GS/(e) dated 07.10.1943, for your information/ record. The above document may please be treated as declassified and there is no objection to make it public, at the discretion of the Commission.

Yours faithfully,


(R.P.SINGH)
DIRECTOR.

Most Immediate / By Hand

(59)

Tele:6102067

NO.2191/NIC/H/99

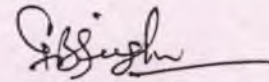
26 Sep 2000

MINISTRY OF DEFENCE
(History Division)

SUB : DECLASSIFICATION OF RECORDS

Reference is invited to the PMO U.O. No. G 16(4) 2000-NGO dated 21.09.2000.

2. It is stated that the DGMI. originator of the letter has intimated that the document No. DMI/5118/135/GS/(e) dated 07.10.1943 could be treated as unclassified. You are requested to intimate the Commission accordingly.



(G.B. Singh)
Director

Ms. Archana Ranjan
Director
PM's Office
South Block.
New Delhi-110011

TRANSMISSION VERIFICATION REPORT

TIME : 28/09/2000 15:15
NAME :
FAX :
TEL :

DATE, TIME	28/09 15:14
FAX NO./NAME	03321 62765
DURATION	00:01:20
PAGE(S)	02
RESULT	OK
CHECK READABILITY OF TRANSMITTED PAGE(S)	01, 02
MODE	STANDARD



TOP SECRET

(60)

S. No. 22 (R)राष्ट्रीय संग्रहालय
NATIONAL MUSEUMDr. R.D. Choudhury
Director General

D.O.NO.F.DGNM-2/2000

September 28, 2000


Sir,

Kindly refer to this office d.o. letter No.DGNM-2/2000, dated September 18, 2000 regarding declassification of records in connection with the inquiry into the alleged disappearance of Netaji Subhash Chandra Bose which is being inquired into by Justice Mukherjee Commission. Yesterday I have talked to Mr. S. Sathyamoorthy, Joint Secretary, Department of Culture and as per his advice I contacted Shri R.B. Singh, Director, PMO. He said that the concerned Ministry or Department will have to take decision in the matter of disclassification of the records. Since the case is long pending and we have not seen what is there in sealed trunk, I think it will be necessary to open the sealed trunk in your presence or your representative in the National Museum so that things can become clear. Mr. Singh has also requested me to bring the matter of your notice and if necessary open it and give necessary information to the Commissioner. Mr. Sathyamoorthy is waiting for your direction.

With regards,

Yours sincerely,

(R.D. Choudhury)

Dr. R.V.V. Ayyar
Secretary
Department of Culture
New Delhi✓ Copy to Shri R.B. Singh, Director, Prime Minister's Office,
South Block, New Delhi.

(R.D. Choudhury)

28/9
28/9
US (M/GO) 28/9

प्र.मं.का. (एन.वी.वी.)/PMO (NGO)
डा. नं./Dy. No..... 28/9/2000
दिनांक/Date..... 28/9/2000

No. 20/TS/2000/24

28/9/2000, नई दिल्ली-110011; तार : संग्रहालय; दूरभाष : 091-11-3018159, 3018046; फैक्स : 091-11-3019821
Janpath. New Delhi-110011; Gram : MUSEUM; Tel : 091-11-3018159, 3018046; Fax : 091-11-3019821

301-3352
Aukh

Tele:6102067

S. No. 23 (R)

REGD

MINISTRY OF DEFENCE
History Division
West Block 8, Wing 1
R.K.Puram.
New Delhi - 110066

NO.2191/NIC/H/99

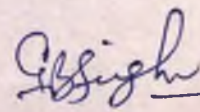
27 Sep 2000

Ms. Archma Ranjan
Director
PM's Office
South Block,
New Delhi-110011

SUB : DECLASSIFICATION OF RECORDS

Reference your note No. PMO U.O. No. G 16(4) 2000-NGO dated 14/15.09.2000 and 21.09.2000.

2 You are requested to confirm that your notes mentioned in Para 1 above can be downgraded to unclassified for our records and necessary action.


(G.B. Singh)
Director

प्र.सं.का. (एन.जी.ओ.)/PMO (NGO)
डा.तं./Dy. No... 193/2000
दिनांक/Date... 29-9-2000

2828/die (RD)/G/2000
28/9

S. No. 24 (R)

Secret
Immediate

No.I-12014/13/2000-IS(D.III)
Government of India
Ministry of Home Affairs
IS-I Division

Dated, the 28th September, 2000.

Justice Mukherjee Commission of Inquiry set up by the Government in connection with the alleged disappearance of Netaji Subhas Chandra Bose has conveyed some directions to various Ministries/Departments/Authorities for production of classified files/documents before the Commission. In this connection, this Ministry has received certain references from various quarters like PMO, MEA, Cabinet Secretariat and others. Taking into consideration, the reflected view points of these quarters and the perception of MHA also in the matter, we have since mentioned to the Commission that all aspects pertaining to the subject matter are under our examination and we will let the Commission know about the final position shortly. In fact, we have sought time from the Commission till 15th of November, 2000 while mentioning at the same time that most likely we will respond to the Commission even earlier.

2. Having regard to this background, it has been decided that all of us should join hands to sort out matters in proper perspective on the basis of our cumulative wisdom. **Accordingly, there will be a meeting in the Chamber of Joint Secretary(IS-I) in room No.192, 1st floor, North Block, New Delhi on 4.10.2000 at 11 a.m.** which should be attended by all concerned. Your presence in the meeting is requested. Kindly come up with adequate brief in respect of matters at your end.

(A.K. Paitandy)
28.9.2000
Director(IS-I)

1. Shri Jayant Prasad, Joint Secretary(CNV), MEA, New Delhi.
2. Ms. Archana Ranjan, Director, PMO, New Delhi.
3. Shri Ravi Mittal, Director, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
4. Shri P.P. Nautiyal, Addl. Deputy Director, IB, New Delhi.

Copy to JS(IS-I) for her kind information.

प्र.सं.का. (एन.बी.ओ.)/PMO (NGO)
डा. नं./Dy. No....686/S/2000
दिनांक/Date.....6/10/2000

(63)

S.No. 25

**TOP SECRET
MOST IMMEDIATE**

**NO.G.16(4)/2000-NGO
PRIME MINISTER'S OFFICE**

**SOUTH BLOCK
NEW DELHI-110011.
Dated: 16.10.2000.**

To

✓ The Chief Secretary,
Government of West Bengal,
Calcutta.

(Attention: Shri A. Bhattacharyya, Special Secretary,
Home (political) Department).

Subject: -Declassification of records.

Sir,

8 pgs. 27
8 37/c

I am directed to refer to this Office letters of even number dated 14.9.2000 and 21.9.2000, on the above subject, and to request that the decision of the Government of West Bengal about declassification of the Top Secret letter written by Shri P.C. Sen, the then CM of West Bengal to the then PM, a copy of which had been enclosed with this Office letter dated 14.9.2000, may please be conveyed to Justice Mukherjee Commission, direct, under intimation to this Office, very early.

Yours faithfully,

2
9/4 (R.P. Singh)
Director
Tel.No.301-2815.

✓ Copy to: The Principal Secretary to Chief Minister, West Bengal, Calcutta.

2
9/4 (R.P. Singh)
Director.

Issued
8/10/2000
7-10 p.m.

Senab(A)

64

SECRET

Government of West Bengal
Home Department
Political

No.7206/SS(P)/2000

Dated Calcutta, the 19th Oct.2000.

From: A. Bhattacharyya,
Special Secretary to
the Govt. of West Bengal.

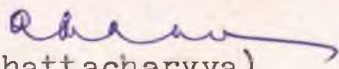
To : Smt. Archana Ranjan,
Director,
Prime Minister's Office,
Govt. of India,
New Delhi.

Sub : Declassification of records.

Madam,

I am directed to refer to your letter No.G-16(4)/2000-NGO dated 14th September,2000 and to inform you that this State Govt. have no objection to declassification of the correspondences made by the then Chief Minister of West Bengal with the then Prime - Minister of India copies of which were enclosed with your letter under reference.

Yours faithfully,


(A.Bhattacharyya)

Special Secretary to the Govt.
of West Bengal.

2
23/10
Us (NGO) Re. put up on
file 1
11/10

प्र.मं.का. (एन.बी.ओ.)/PMO (NGO)
दि. 24/10/2000
दि. 24/10/2000
240/DIRCP/S
23/x

S.No. 27 (R)

SECRET

65

Government of West Bengal
Home Department
Political

No. 418/SS(P)/2000.

Dated Calcutta, the 30th October, 2000.

From: A. Bhattacharyya,
Special Secretary to the Govt. of West Bengal.


To : Shri R.P. Singh,
Director,
Prime Minister's Office,
Govt. of India, South Block,
New Delhi-110 011.

Sub : Declassification of records.

Sir,

I am directed to refer to your letter No.G.16(4)/2000-NGO dated 16-10-2000 addressed to the Chief Secretary, Govt. of West Bengal and to say that the views of the State Govt. as asked for have already been communicated to Smt. Archana Ranjan, Director, P.M.O. vide this office secret letter No.7206/SS(P)/2000 dated 19th October, 2000. I am further directed to inform you that as the State Govt. has received no communication from Justice Mukherjee Commission of Inquiry for conveying the views of the State Govt. in the above matter necessary action in this regard may kindly be taken from your end.

Yours faithfully,



(A. Bhattacharyya)
Special Secretary to the Govt. of West Bengal.

प्र.सं.का. (एन.जी.ओ.)/PMD (NGO)
डा.सं./Dy. No. 753/S/2000 ...
दिनांक/Date... 2.11.2000

285/DIR (R)/S/2000
1/11

S. No 28 (R)

66

Secret
Most Immediate

Ministry of Home Affairs
IS-I Division

Subject: Declassification of records on INA/Netaji Subhas Chandra Bose.

PMO may please refer to their UO note No.16(4)/2000-NGO dated 14/15.9.2000 on the above subject. This Ministry has since considered the matter and has no objection to the under mentioned documents (photocopies attached) being declassified and produced before the Justice Mukherjee Commission of Inquiry:-

- NGO
1. MHA's UO Note No.VI/11034/114/97-IS(D.III) dated 10.9.98. *NGO*
 2. MHA's UO No.VI.11034/114/97-IS(D.III) dated 24-25.8.98. *NGO*
 3. MHA's DO letter No.5293/JS(A)/93 dated 27.9.1993(along with its enclosures). *NO declassified*
 4. MHA's DO letter No.1/27/91-Public dated 5.10.1993. *NO declassification*
 5. MHA's UO No.I/12014/6/80-IS(D.III) dated 27.10.1980.
 6. MHA's UO No.65/80-PMS/D.III/IS dated 29.8.1980. *Pol*
 7. MHA's DO No.VI/11034/18/98-D.III dated 16.3.1999. *915/11/4/99-Pol vol. I*
 8. MHA's DO No.VI/11034/18/98-D.III dated 12.3.1999. *915/11/4/99-Pol vol. I*
 9. Writ Petition No.281 of 1998 dated 16.6.1998. *NGO*
 10. MHA's Note No.S-122/87-FCRA-I dated 28.4.1988. *800/6/13/88-Pol*
 11. MHA's DO No.F.25/48/70-Poll-II dated 18.11.1970. *2(64)/56-70-Pol -vol. V*
 12. MHA's UO No.Dy.S-122/87-FCRA-I dated 27-30.11.1987.
 13. MHA's DO No.21/52/78-T dated 21.11.1978. *2(64)/78-Pol (Pol)*
 14. MHA's DO No.24/6/71.Poll-I dated 10.11.1971. *2(64)/56-70-Pol vol. V*
 15. MHA's Note for the Cabinet No.32/132/69-Poll.I(A) dated 1.9.1969. *NGO*

This Ministry feels that the documents indicated below (copies attached) may continue to be treated as classified:-

- NGO*
1. MHA's DO No.I/12014/27/93-IS-D.III dated nil. *NGO*
 2. MHA's UO No.I/12014/27/93-IS(D.III) dated 9.8.1994. *NGO*
 3. MHA's UO No.I/12014/27/93-IS.D.III dated 20.4.1994. *915/11/10/93-Pol*
 4. MHA's UO No.25022/109/79.F.VII dated 6.2.1980(with enclosures). *Pol*
 5. Cab.Sectt. ID Note No.281/12/1/2000-TS dated 18.9.2000. *NGO*

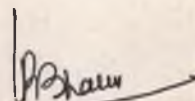
67

Secret

- 2 -

This has the approval of Home Secretary.

The action taken by PMO with reference to the compliance of the directions of the Justice Mukherjee Commission of Inquiry may please be intimated to this Ministry.



(V.P. BHATIA)

Under Secretary to the Government of India.

Tele. No. 301 5700

PMO (Smt. Archana Ranjan, Director) South Block, New Delhi

MHA ID Note No.I.12014/13/2000-IS(D.III) Dated, 3rd Nov., 2000.

271/Dir(A)/S
611.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

SECRET
PRIORITY

2/c

PMO may kindly refer to their letter No.G.12 (3)/ 98-NGO, dated 16th April, 1998 and 16th July, 1998 on the subject of a news item from the 'Hindustan Times' reporting that the Calcutta High Court has ruled that ashes should not be brought back until Netaji's death has been conclusively proved. Deptt. of Legal Affairs, Calcutta has forwarded a certified copy of the order dated 7.4.1998 (copy enclosed) wherein it has been stated that 'the Government of India shall obtain full particulars and evidence and satisfy itself about the genuineness of the claim that the ashes kept at the Renkoji Temple of Japan are that of Netaji Subhas Chandra Bose and take the people of India in confidence.

10.9.98
(A.K. Paltandy)
Director (IS.I)

Shri P.P. Shukla, Joint Secretary to PM, PM's Office
MHA U.O.No.VI/11034/114/97-IS(D.III) Dated, the 10.9.98

IPS.

12/IX

Dir (S)

Submitted for further
directions w.r.to order of
Hr. Secy to Govt on p. 9/c.

385/TS/274(S)/98
16/9

Dir (S)

1732/TS(P)/14/98
10/9

PMO (IS.II)
Dy. No. 1054
10/9

JS(P)

P.S.
16/IX

15/9
17/1

✓
SI No. 7

(179)

(69)

(2)

(20)

(69)

SECRET

Immediate

Government of India
Ministry of Home Affairs

PMO may kindly refer to their letter No.G.12(3)/98-NGO dated 16th July, 1998 on the subject of a news item from the 'Hindustan Times' reporting that the Calcutta High Court has ruled that ashes should not be brought back until Netaji's death has been conclusively proved. For necessary follow up we have been pursuing this matter with our Central Government Advocate in Calcutta (Smt. S.Bhattacharya). We have requested her for a copy of the judgement in Writ Petition No. 1805/97 in case Asim Kumar Ganguly Vs. Union of India. There has been no response from the Central Government Advocate so far. We have even written to Registrar, Calcutta High Court requesting him for a copy of the judgement. The last communication to our Central Government Advocate has been sent through IB bag. We have written to her again. As soon as a copy of the judgement is received, we will be able to report the factual position in detail to PMO.

24.8.98
(A.K.Paitandy)
Director (IS.I)

Sh. P.P.Shukla, Joint Secretary to PM, PM's Office, N. Delhi
MHA U.O.NO.VI.11034/114/97-IS(D.II) Dated 24.8.98

25

12/12/98
PAS
25/VIM

12/12/98

11/12/98

10/12/98
10/12/98
10/12/98

4074/33(12)/M/98
25/8

September 27, 1993.

M. VENKATESWARA IYER

संयुक्त सचिव

JOINT SECRETARY

Phone: 3015785

D.O.No.5293/JS(A)/93

Dear Shri Vijay Kumar,

I enclose a copy of the judgement dated 4 March, 1987, delivered by Hon'ble Justice Mr. S.N. Bhargava of the High Court of Judicature, Rajasthan. As you will see, this judgement relates to the inquiry into the circumstances in which Netaji Subhash Chandra Bose died. The first inquiry in this matter was ordered by the Ministry of External Affairs who set up the Netaji Inquiry Committee under the chairmanship of Shah Nawaz Khan.

2. The aforesaid judgement has been relied upon in a writ petition filed in the Calcutta High Court by one Shri Bijan Ghosh and certain others who have joined him as added respondents.

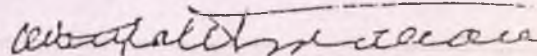
3. According to the judgement of the High Court of Rajasthan, the Ministry of External Affairs were required to look into the matter once again and examine all the available evidence including all the papers and other materials which the petitioner had claimed that he had at his disposal. The concluding part of the judgement may please be seen in this regard.

4. As we have to give para-wise comments in respect of the writ petition pending in the High Court at Calcutta, we are interested in knowing immediately what action was taken by the Ministry of External Affairs in pursuance of the judgement of the High Court of Rajasthan.

5. We shall be grateful if you will consider the matter and send us a reply immediately. If you are not dealing with this matter, kindly pass it on to the concerned Joint Secretary with the request to send me a reply urgently. Also, kindly let me know who is the officer concerned so that I can be in touch with him.

With regards,

Yours sincerely,



(M. Venkateswara Iyer)

5
S. No. 10/93
27.9.93

Shri Vijay Kumar,
Joint Secretary (Coord),
Ministry of External Affairs,
New Delhi.

(71) (185) 24 (18)

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH JAIPUR.

HON'BLE

Shri Nand Lal Sharma Vs. Chief Secretary, State of
Rajasthan and another.

S.C. CIVIL PETITION NO. 1002/1984

Under Articles 226 and 51 of the Constitution
of India.

FILED IN P.M. : : : JANUARY 18, 1986

PRESENT

HON'BLE MR. JUSTICE S.N. BHARGAVA

Shri Nand Lal Sharma, petitioner in person.

Shri P.L. Gupta, Addl G.P.

Shri P.L. Gupta, standing Counsel for

petitioner in person.

ON PETITION:

The petition was filed by Shri Nand Lal Sharma on a very important national issue asking this court to order for starting an open judicial enquiry on the national level to know about the whereabouts of Mahesh Subhash Chandra Bose, a national hero, and for the order to get him free, if he is still confined as a war criminal in any country. The petition was filed on 26.3.84. Along with the petition, a declaration was also filed that the case should be put up before a full bench for decision. When the case came up before Hon'ble the Chief Justice, he was pleased to order that the case may be put up for admission before me. The petitioner also filed an application giving the

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summoned from the non petitioner No.2, Secretary, Ministry of External Affairs, Union of India and he also filed some additional documents on 27th August, 1984. Orders to show cause were issued as to why the writ petition should not be admitted and orders of the writ too applications were also sent to the non petitioners. On 15th March, 1985, Shri B.P. Gupta, Standing Counsel for the Union of India was called for and was directed to file reply of the writ petition within one month. Time was again sought by Shri Gupta on 8.5.85 and the case was fixed for 8th July, 1985. Thereafter, time was sought for adjourn and the case was not listed before any other bench inspite of applications for adjournment filed by the petitioner. The case came up before me on 10th October, 1985, till then, no reply was filed by either the State of Rajasthan or the Union of India. Shri B.P. Gupta, learned that Standing Counsel for the U.O.I. submitted that he has received no instructions, though he had intimated the Secretary, Ministry of External Affairs. The case was ordered to be put up on 4.11.85 and the non petitioners were permitted to file reply before that date. Again on 19.11.1985, Shri Gupta submitted that he has received no instructions till then, inspite of written communication. The learned Deputy Government Advocate submitted that he has received instructions not to conduct the writ petition on behalf of the State of Rajasthan. The petitioner wanted time to

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file some additional affidavit and some interrogatories. The petitioner filed some more documents and also produced two printed books (1) NETAJI AZAD HIND FAUC AND AFTER, BY R.M. KASLIWAL AND (2) AN INDIAN FREEDOM FIGHTER IN JAPAN, MEMOIRS OF S.R. MEH. The case was taken up finally for arguments on 9.12.55. Shri R.P. Gupta still submitted that he has received no instructions and the Additional Government Advocate also reiterated that he had no instructions in the said matter. Hence, the petitioner was heard ex-parte in person and order was reserved.

The petition in this writ petition is submitted by the petitioner, a close colleague of Netaji Subhash Chandra Bose and played an important role in his exit from the prison and escaping out of India. In his petition, the petitioner has further submitted that two Commissions, namely the Netaji Plan Commission and Justice Khosla Commission, constituted earlier by the Government of India to inquire into the disappearance of Netaji Subhash Chandra Bose, could not come to any definite conclusion for the various reasons mentioned in the writ petition and according to the petitioner, Netaji Subhash Chandra Bose died in a plane crash in Formosa was a fabricated one as the co-passengers who were supposed to have been travelling in that plane have lived for long after the supposed accident and the supposed death.

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file some additional affidavits and some interrogatories. The petitioner filed some more documents and also produced the printed books (1) NETAJI AZAD HIND FAUC AND AFTER BY R.M. KASLIWAL and (2) AN INDIAN FREEDOM FIGHTER IN JAPAN, MEMOIRS OF S.D. NETAJI. The case was taken up finally for arguments on 4.12.55. Shri R.P. Gupta still submitted that he had received no instructions and the Additional Government Advocate also reiterated that he had no instructions in the said matter. Hence, the petitioner was heard ex-parte in person and no order was reserved.

The petition in this writ petition was submitted that the petitioner's collection of Netaji Subhash Chandra Bose and played an important role in his exit from the prison and escaping out of India. In his petition, the petitioner further submitted that two Commissions, namely the Netaji Subhash Bose Commission and Justice Khosla Commission, constituted earlier by the Government of India to inquire into the disappearance of Netaji Subhash Chandra Bose, could not come to any definite conclusion for the various reasons mentioned in the writ petition and according to the petitioner's story that Netaji Subhash Chandra Bose died in a plane crash in Formosa was a fabricated one as the co-passengers who were supposed to have been travelling in that plane have lived for long after the reported accident and the supposed

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... safety, deserting his people, could
not be believed. The petitioner has also referred
to the fact that Netaji was confined in Daurambur
Fort (West Bengal) as a war criminal and after his
capture, he was to be released. In his application
dated 6.2.44, he has given a long list of documents
which he asked the Hon. Officer No. 2 to produce
so that a definite conclusion could be reached.
In that ~~xxxxxxxxxxxx~~ application, he further
assured that he will be submitting list of Indian and
foreign witnesses who are willing to put their
statements recorded and to corroborate if fresh enquiry
was ordered. He also produced some extracts of the
Daily of Netaji Subhash Chandra Bose. He has also
produced a copy of the Indian Tribune (English
Edition), dated 16th August, 1945 containing an
Article concerning Netaji Subhash Chandra Bose.
He also produced an affidavit of Dr. R.M. Keshiwal
in which he stated that whatever he had written in his
book 'Netaji and His Days and After' is correct
and true to the best of his personal knowledge and
belief and especially in preface on pages between
(iii) and (iv) and in Epilogue on pages 69 to 73.
Further he has produced by the petitioner namely,
an Indian freedom fighter in Japan, Memoirs of
of A.M. Nair containing Chapter No. 28, the
Disappearance of Netaji Subhash Chandra Bose
pages 272 to 284, in which the whole episode
discussed in (ii) and doubts have been expressed.

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considered
the whole matter. It
is stated that Netaji Subhash Chandra Bose
was a great freedom fighter and a great freedom
fighter. He was a revolutionary freedom
fighter. In 1941 and 1942, he was arrested
by the British in India. It is true that the
Government of India was concerned in this
matter and appointed two commissions, namely Shree Narayan Khan Commission
and Justice People Commission to enquire into the whole matter
regarding the disappearance of Netaji Subhash
Chandra Bose but the people were not satisfied
with the manner in which these commissions functioned
and there has been demand from the public that
another commission should be appointed to go
into the matter afresh and it is in that
direction only that the present writ petition has
been filed. Notices were issued both to the State
of Pakistan and the Union of India, but it is very
unfortunate that none of them have cared to file
any reply to the writ petition and produce relevant
evidence before the court to come to some definite
conclusion. Either because the Union of India is
indifferent to this question as the matter had
already been enquired into then once or the Govern-
ment of India itself is not satisfied with the
respective reports of the two commissions and therefore
does not want to contest the writ petition and
has filed for ordering a fresh enquiry.

Netaji Subhash Chandra Bose.

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Since my reply has been filed on behalf of the
and the relevant documents have been
produced in the court, it is not possible to come
to a definite conclusion that the two earlier
Commissions did not hold the enquiry properly or there
were any inherent improbabilities. I do not think
it proper to order a fresh enquiry without examining
the whole matter which cannot be done without the
assistance of the Union of India.

In the facts and circumstances, I think
it proper to issue a direction to the non petitioner
No. 2 to look into the matter dispassionately and
hear the petitioner in person patiently and
examine the documents and the ~~xxxxxxxxxxxxxxxxxxxx~~
evidence that he seeks to produce in support of
his contention, and then come to a definite
conclusion. In my opinion, six months time will be
sufficient for the Union of India to examine the whole
matter from scratch and if necessary,
have a public inquiry to produce material whatever
it may be in connection before coming to a prima
facie decision as to whether fresh Commission is
necessary or not. Petitioner should submit all his
evidence, witness and other material before Government
of India and the six months will start from the
date the material is filed by the petitioner.

The writ petition, is therefore, disposed
of accordingly.

sd/-
S.H. GUARANA.

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at 28/1/1941

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Copy forwarded to the Home Secretary, New D
for information and necessary action.

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DEPUTY REGISTRAR

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3750/JS(A)/93
5/10/93

*1. m. d. d.
for Section 16 say to him
JS(H). P.H. and please for
a reply. R. S.*

संयुक्त सचिव
गृह मंत्रालय
भारत सरकार

नायें ब्लॉक, नई दिल्ली-110001
JOINT SECRETARY
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
NORTH, BLOCK NEW DELHI-110001

PHONE : 3015785

11. (M)

MOST IMMEDIATE/BY SPECIAL MESSENGER/
COURT CASE

D.O.No.1/27/91-Public

5 October, 1993.

Dear Shri Dilip Lahiri,

I enclose a copy of my D.O.letter No.5293/JS(A)/93 dated September, 27, 1993, addressed to Shri Vijay Kumar, regarding the judgement dated 4th March, 1987, delivered by Hon'ble Shri Justice S.N. Bhargava of the High Court of Judicature, Rajasthan, relating to the inquiry into the circumstances in which Netaji Subhas Chandra Bose died.

2. Shri Vijay Kumar told me that he has passed on my letter to you as you are concerned with the subject.

3. May I request you kindly to expedite your reply? We are dealing with a writ petition in the Calcutta High Court in which the aforesaid Judgement has been relied upon and we have to tell the Court what action has been taken in pursuance of the Judgement. Any delay will embarrass us and will result in Contempt of Court proceedings.

With regards,

Yours sincerely,

M. Venkateswara Iyer
(M. VENKATESWARA IYER)

Shri Dilip Lahiri,
Joint Secretary (AF),
Ministry of External Affairs,
New Delhi-110001.

P.S. I spoke to you today.

M. Venkateswara Iyer
5.10.93

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u
SECRET

MINISTRY OF HOME AFFAIRS
(I.S.DIVISION/DESK III)

Subject: Arrangements to bring ashes of Netaji
Subhas Chandra Bose to India.

...

The Prime Minister's Office may kindly refer
to their U.O.NO.F.2(64)/80-PM, dated 22.10.1980 on the
subject noted above.

2. The matter is still under consideration, A
further communication will follow as soon as a decision
is reached.

[Signature]
(S. RANGASWAMI)
DESK OFFICER
Tel: 372050

PM's Office(Shri N.S.Sreeraman, Dy. Secretary)
MHA's U.O.NO.I-12014/6/80-IS(D.III), dated 29.10.1980

30/10
20/11

(81)
(196)
(2)
/SECRET/

MINISTRY OF HOME AFFAIRS
I.S. Division.D.III

Subject: Arrangements to bring ashes of Netaji Subhas Chandra Bose to India.

The Prime Minister's Office may kindly refer to their U.O. No. F.2(64)/80-PM dated the 25th August 1980 on the subject noted above.

2. The matter is under consideration. A further communication will follow as soon as a decision is reached.

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Pay
Approved to P.M.O.
2(64)/80/8
/sp/
29.8.80
Dwarka Nath
Desk Officer
Tel:372050.

PM's Office(Shri N.S. Sreeraman, Dy. Secretary)

M.H.A. UC NO. 65/80-PMS/D.III/IS: dated the 29th August '80



संयुक्त सचिव
JOINT SECRETARY

SANGITA GAIROLA
JOINT SECRETARY (IS-I)
Tel: 301 5736

**SECRET/MOST IMMEDIATE
OUT TODAY**

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

4/C

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D.O. No. VI/11034/i8/98-D.III

March 16, 1999

17/3

Dear Sir,

Kindly refer to my D.O. letter of even number dated March 12, 1999 requesting you to kindly attend a meeting on 24th of March, 1999 at 12 P.M. in the Chamber of Union Home Minister in North Block, Ministry of Home Affairs, New Delhi

2. Due to unavoidable reasons this meeting has been **postponed** and will now be held on 25th of March at 12 P.M. The venue will remain the same. The inconvenience caused to you is deeply regretted.

With regards,

Yours sincerely,

Sangita Gairola
(Sangita Gairola)

Shri Brajesh Mishra,
Principal Secretary to PM,
Prime Minister's Office,
South Block,
New Delhi.

PR. SECY 10 PM

BY No. 575-6/97 Office of J. S. (J)

Date 17/3/99 Hy. No. 1015-5

Date 17/3/99

17/3/99



संयुक्त सचिव

JOINT SECRETARY

SANGITA GAIROLA
JOINT SECRETARY (IS-I)
Tel: 301 5736

**SECRET/MOST IMMEDIATE
OUT TODAY**

915/11/C/9/99 (201)

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

S/N03/C

(24)
(83)

D.O. No. VI/11034/18/98-D.III

March 12, 1999

Dear Sir,

As you may be aware, the Calcutta High Court in its judgement dated 30th April, 1998 on a Writ Petition No.281 of 1998 filed by one Shri Rudra Jyoti Bhattacharjee and Another Vs. Union of India & Others in the form of a public interest litigation has directed that the Central Government shall launch a vigorous enquiry into the disappearance of Netaji Subhas Chandra Bose. A copy of the judgement is enclosed.

The Government proposes to examine all aspects relating to the nature and mechanism of the new enquiry. Towards this end the Union Home Minister has convened a meeting on 24th of March, 1999 at 12.00 P.M. in his Chamber in North Block, Ministry of Home Affairs, New Delhi, to elicit the considered views of eminent opinion makers like you.

I shall, therefore, be grateful, if you kindly make it convenient to attend the meeting.

Yours sincerely,

Sangita Gairola
(Sangita Gairola)

Handwritten notes and signatures: "us (pm)", "ECY to PM.", "5.38-5.59", "12/2/99", "Shri Brajesh Mishra", "Principal Secretary to PM, Prime Minister's Office, South Block, New Delhi."

Shri Brajesh Mishra,
Principal Secretary to PM,
Prime Minister's Office,
South Block,
Office of J. E. (New Delhi).

By. No. 197-5
Date. 7/4/99

→ 4/C

Handwritten signature/initials



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S. Bhattacharya.

W.P. 281/98

3/8/30.4.98

17/6.

W.P. NO. 281 of 1998

In the High Court at Calcutta
Constitutional Writ JurisdictionOriginal Side

present ;

The Hon'ble Mr. Prabhas Shanker Mishra, Chief Justice

and

The Hon'ble Justice B. Bhattacharya

Rudra Jyoti Bhattacharjee & Anr.

versus

Union of India & Ors.

(Public Interest Litigation Matter)

Judgement on ; April 30, 1998.

Prabha Shanker Mishra, C.J. :

It is difficult for us to pick up the threads to have any well-knit statement of fact from the contents of the instant petition yet, after our several attempts and after hearing the petitioner in person and the learned advocates representing the respondents No. 1 to 4, we have been able to gather some bits from here and some bits from there to have some comprehension of the narration in the petition.

The Asiatic Society, Calcutta is impleaded as one of the respondents. We do not, however, find any reason why any prohibitive order and/or direction be issued or made against the Society. Since, in our view, the Society is not a necessary party, we are not persuaded to issue any notice to it, name of the 5th respondent is accordingly deleted and expurged.

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Alleged mysterious disappearance of Netaji Subhas Chandra Bose, according to the petitioner requires direction inter alia, to the respondents herein (1) to classify and disclose all documents relating to Netaji Subhas Chandra Bose including the Indian National Army; (2) to make a categorical statement whether name of Netaji was and still is in the list of war criminals drawn up after the Second World War and issue a press communique to the said effect; (3) not to allow any agency or publisher or any person to publish the story of the death of Netaji Subhas Chandra Bose in the alleged plane crash on 18.8.1945; (4) to disclose the stand of the Government of India regarding Netaji Subhas Chandra Bose if he is found on Indian soil - "whether Government of India will welcome him or hand over him to the allied forces for act as war criminal and make a press communique to that effect" and (5) to produce and or transmit all the records, files and documents mentioned in Annexure 'F' to the petition about disappearance of Netaji Subhas Chandra Bose since August 18, 1945 and subsequent thereto.

petitioner has stated and in doing so he has only echoed and joined a multitude of Indians that for his gallant deeds for independence of India, Netaji is recognised as one of the greatest national leaders of international importance that his mysterious disappearance on and from August 1945 is still wreaking and agitating the minds of the citizens of India and that the story that floated that he died in the alleged plane crash on 18 August, 1945 at Tai Hoku in Japan is not accepted by the Indians.

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3.

One British Intelligence Officer allegedly informed one Amrik Singh Gill, who was awaiting execution of death sentence, on 19th August, 1945 that Netaji died in an aircrash on 18th August, 1945. Gill published the said information in a magazine of Netaji Centre publication at Kuala Lumpur. The same was re-printed in Jayshree, a Bengali Magazine, in its Azad Hind Golden Jubilee number in October, 1993. Delhi Radio, on 21st August, 1945 made the announcement that Netaji died in an aircrash on 18th August, 1945 (Ref., "A Springing Tiger" by Hue Toy, a Military Intelligence Officer of British Army). Quite a few publications and information to the above effect followed and when the controversy thickened and mystery deepened, the Government of India constituted Netaji Enquiry Committee in the year 1956 with Sri Shahnawaz Khan as the president and Sri Suresh Chandra Bose and Sri S.N. Moitra as Members. This was followed by appointment of a Commission of Enquiry in the year 1970. Netaji Enquiry Committee as well as the Commission of Enquiry submitted their reports. On 28th August, 1978, however, the then prime Minister of India made a statement at the floor of the Lok Sabha that, "Shah Nawaz Committee and Khosla Commission held the report of Netaji Subhas Chandra Bose's death following a plane crash as true. Since then reasonable doubts have been cast on the correctness of the two reports and various important contradictions in the testimony of the witnesses have been noticed. Some further contemporary official records have also become available. In the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive." According to the petitioner, the above statement of the then prime Minister of India was a virtual and simultaneous burial of the Netaji Enquiry Committee and Enquiry Commission reports. However, on 11th

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April, 1979 the then Minister of State for Home Affairs made a statement on the Lok Sabha in reply to a question that was raised on the request by General Fujiwara of Japan for bringing the alleged ashes of Netaji from Kenkoji Temple to India, "In the light of reasonable doubts cast on the correctness of the conclusions reached in two enquiry reports on the death of Netaji Subhas Chandra Bose, the Government finds it difficult to accept that the earlier conclusions are decisive. It will, therefore, not be possible to take any action at the present on the suggestion of Gen. Fujiwara to bring the ashes." According to the petitioner waxing and waning attitude and behaviour of the Government of India and other responsible persons have almost betrayed the design of precipitating and perpetuating the myth of the death of Netaji Subhas Chandra Bose in the alleged plane crash as reality without there being any serious effort to establish by hard and genuine evidence.

The petition with the facts as above, however, is littered with the statement that the then Government of India (British) after the second world war declared Netaji a war criminal and following the independence and almost simultaneously to India's taking a seat/place in the United Nations Organisation ratified and agreed that war criminals of friendly countries would be delivered by the country holding them; thus agreeing that India would deliver all war criminals of the second world war to the Government of Great Britain, and since Subhas Chandra Bose was declared a war criminal by the Great Britain and India ratified and agreed to do so, it still holds Subhas Chandra Bose as war criminal. The petitioner, in short, in this behalf has been agitating and asking - Does Government of India still hold Subhas Chandra Bose as a war criminal and thus does it behave the Government to treat Subhas shabbily or above who while alive as well as in death is the embodiment of the ideal and image of a true Indian for all fellow Indians.

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We have summarised above the material facts upon which the petitioner has sought for the reliefs as indicated above and omitted to mention particulars of information in any detail with respect to either statements or works about the death of Netaji as alleged and the mysterious disappearance, or on the Government of India even unwittingly as alleged, still holding that Netaji is a war criminal. Narration of the facts, however, shall remain inconclusive if we do not refer to a recent case (W.P.No.1805 of 1997) which has been disposed of by a Bench of this Court on 7th April, 1998. The said petition was filed as vox populi when newspapers like the Bartaman in its publication of 23rd August, 1997 and the Anandabazar in its publication of 27th August, 1997 published/reported that the then Defence Minister had stated that he would bring the ashes of Sri Subhas Chandra Bose from Kenkoji Temple of Japan, after referring to the judgement of the Supreme Court in Union of India versus Bijon Ghosh [1998 W.B.L.R.(SC) page 9] and the publications aforementioned, this Court in its judgement in the said case has stated as follows :-

"When the Government of India intended to honour him by conferring the Bharat Ratna Award and used in press communique the expression 'posthumously', a petition under Article 226 of the Constitution of India was moved and against an interlocutory order therein a Special Leave petition was preferred before the Supreme Court

***** We have no manner of doubt that a responsible Government of the people of India will do nothing which would undermine the stature and image of Netaji Subhas Chandra Bose. Except in such proceedings in which any legal presumption is available, for purposes as the acceptance of ashes as that of Netaji Subhas Chandra Bose,

It is not possible to accept that he died on 18.8.1945 or at any time thereafter unless there is conclusive evidence. Any ashes of a dead person in the absence of such evidence cannot be accepted as that of Netaji by the people of India. It would be difficult to accept that the Defence Minister of the country has made a statement of such consequences without verification of the facts, yet responsible newspapers like Bartaman Ananda Bazar have so reported and the petitioner has moved this court as he is, as stated, alarmed that the Government of India has intended to accept the factum of the death of Subhas Chandra Bose in the shape of ashes which are allegedly stacked and kept at Renkoji Temple, Japan. Before closing the proceedings, however, in view of the assurances that nothing of the sort is likely to be done by the Government of India, we are inclined to order that before accepting the ashes which are allegedly kept at the Renkoji Temple, Japan as that of Netaji Subhas Chandra Bose, the Government of India shall obtain full particulars and evidence and satisfy itself about the genuineness of the claim that the ashes kept at the Renkoji Temple of Japan are that of Netaji Subhas Chandra Bose and take the people of India in confidence."

Thus, on the questions of death of Netaji, that he died in the plane crash, that his ashes are kept at Renkoji Temple of Japan, that Government of India is almost accepting that Netaji has died and that his ashes are being brought to India, in our view, are fully answered by the judgement in W.P.No.1805 of 1998 dated 7th April, 1998, that needs, however, to be clarified for all concerned (to bear in mind that Government of India did realise that full facts and evidence were required

to be gathered from every person and place and it appointed first the Enquiry Committee and next Enquiry Commission. After the reports of the Committee and the Commission were submitted, the then prime Minister made categorical statement in the Lok Sabha that since the reports, reasonable doubts have been cast on their correctness, various important contradictions are noticed in the testimony of the witnesses and further contemporary official documentary reports have become available, "in the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive.")

(Official stand of the Government as expressed in the Lok Sabha on 28-8-1978 is reiterated on 11-4-1979, by the then Minister for State of Home Affairs. Two deviations/aberrations, however, occurred first when Government of India intended to honour Sri Subhas Chandra Bose by conferring 'Bharat Ratna' Award and used in the press communique the expression posthumously and secondly recount by Defence Minister of the country made a statement that Government of India intended to accept the factum of death of Subhas Chandra Bose and bring the ashes which are stacked and kept at Renkoji Temple in Japan.)

British quit India and the country got its independent but with Dominion Status in the British Empire on 15th of August, 1947. The people of India, however, resolved to constitute it into a Republic and their Constituent Assembly on 26th day of November 1949 adopted, enacted and gave to the people the Constitution of India, to be effective on and from 26th of January 1950. On 15th of August 1947, India, indeed, achieved Independence and inherited the British sovereignty as well as British legacy. When the people, however, adopted the constitution and established the Republic, India unsaddled itself from the yoke of

past to start afresh with the goal of justice, Social, Economic and political, Liberty of thought, expression belief, faith and worship, Equality of status and of opportunity and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation and guaranteed Equality of law and equality before law to all persons and freedoms of speech and expression, assembly peaceably and without arms, of association or Union and of movement freely throughout the territory of India and to reside and settle at any part of the territory of India. Article 13 of the constitution declared laws inconsistent with or in derogation of the Fundamental Rights in part-III of the constitution void and inhibited the State from making any law which took away or abridged the rights conferred by part III.

The status Netaji Subhas enjoys in the Indian Republic is that of a person who is a Bharat Ratna. He enjoys a greater status in the hearts and minds of the people of India than a mere title which the Government bound by the rules of procedure intended to confer upon him. The expression 'posthumously' in the Communique of the Government of India when Bharat Ratna was to be conferred indeed was a sad and irresponsible act at some executive level of the Government which caused wide-spread resentment and as noticed by the Supreme Court in Union of India v. Bijon Ghosh (supra), "in deference to the feelings so eloquently expressed in this proceedings and which have no doubt conveyed to the Union of India, the award was in fact not conferred and the proposal was dropped." Another aberrative act was the filing of W.P.No.1805 of 1997 and this Court has ordered. "Before closing the proceedings, however, in view of the assurance that nothing of the sort is likely to be done by the Government of India we are inclined to order that before

accepting the ashes which are allegedly kept at the Renkoji temple at Japan as that of Netaji Subhas Chandra Bose, the Government of India shall obtain full particulars and evidence and satisfy itself about the genuineness of the claim, that the ashes kept at Renkoji temple of Japan are that of Netaji Subhas Chandra Bose and take the people of India in confidence."

The two aberrations are outside the Lok Sabha. True, one which carried the express 'posthumously' was a communique of the Government of India which is deference to the popular feeling was withdrawn but the other, that is to say, the statement of the Defence Minister in respect of the ashes of Netaji was neither a statement in any of the Houses of parliament nor in any communique of the Government of India. That was out and out a statement most unwittingly made by the Defence Minister of the Country. The Official stand of the Government of India, thus, is that notwithstanding the reports of the Enquiry Committee and the Commission of Enquiry aforementioned, there are doubts as to the death of Netaji in the manner as reports indicated and that there was/is a need to have further probe and enquiry to conclusively establish that Netaji has died, that he died in the plane crash, as alleged, and that his ashes are lying in some temple in Japan. With such specific stand when the Government has informed the parliament more than once as above and no further enquiry or probe has yet been held, it is beyond imagination that Government of India without further or fresh enquiry and/or probe would accept the factum of death of Netaji Subhas and/or of the alleged air-crash death and/or the ashes being kept at a temple in Japan.

Learned Counsel for the respondents has categorically assured the court that the Government of India has been maintained and is maintaining even now that a further/fresh enquiry/probe is required and the information that Netaji died in the

plane crash on August 18, 1945 is full of loopholes, contradictions and therefore inconclusive.

It is difficult to perceive why the petitioner has been harping on Netaji being a war criminal for the Indian Republic and its people as declared by the British Government in year 1945 or in year 1946. True people of India fought along with the British against Japan, German and Italy but they continued their way of Independence against them until they quit India on 15th of August 1947. For British, one who stood against their oppressive acts was a criminal. For Indians, he was a freedom fighter. For British, who supported their was efforts friends and allies. For India all who stood against aggression and subjugation were friends.

Netaji Subhas Chandra Bose had launched his own war for Independence of India, formed Indian National Army (I.N.A.) marched ahead to free the people of India from subjugation and reached Indian territory of the Andaman and Kohima, Manipur. His was an army of Indians, for the Indians and for the Independence of India. Such a hero however when India achieved its Independence was mysteriously missing. It (India) has been waiting to welcome its Hero. He has, however, not been found yet.

People in India are not going, it is clear from the aforementioned events, to accept that their hero who led the first National Army is dead unless they are convinced after seeing conclusive evidence in this regard. Who then will call Netaji a war criminal? Any Indian public except a traitor, a person who does not have the defence and love for the country and its heroes alone can do so. We do not have any hesitation

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(90) (94) (35)

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in concluding that the statements in documents which are lying in archives which are to the effect that Netaji is a war criminal and all persons who have been saying such a thing are relics of the British Raj. The petitioner shall be well advised to dis-
✓ abuse himself of even remotest/faintest idea that the people of India, and the Government of India since it is the Government of the people of India, can ever in dreams would think of Netaji as a war criminal or a traitor. As we understand same and understanding people in Great Britain too take him as one of the ablest sons of India and one of the most loved by the people of India. We see thus no reason why any Rule be issued to de-classify and disclose all documents relating to Netaji Subhas Chandra Bose including Indian National Army untill such inquiry as is desired is held. De-classification and disclosure of the contents of sensitive documents cannot be insisted upon unless one is satisfied that such disclosure would not be against the interest of the sovereignty and integrity of India, the security of the states, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court or defamation or would not cause incitement to an offence (see Article 19 of the Constitution) and if made would not harm the public interest. In the instant case we have reasons to believe, any such disclosure would not held the cause of the public at all.

We see absolutely no reason for any statement from the respondents whether Netaji Subhas Chandra Bose is still in the list of war criminals drawn after the second world war. As we have indicated above, no one much less people of India, would allow any person to treat Netaji as a war criminal. For, Indians Netaji is one of the great patriots.

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It is difficult similarly to imagine how any Indian would think that Netaji would not be welcome on the Indian soil when Indians hold him amongst the best a few sons of India. The petitioner, as we have observed earlier, has been ill-advised to seek any disclosure from the Government of India or such information whether Government of India would welcome him or hand him over to the Allied Forces for trial as war criminal. Such misconceived ideas, in stead of helping the cause, as we have observed above, would cause dissensions and resentments and unnecessary bickerings. We are inclined however to take notice of one aspect of the matter; There has been no positive attempt it seems after the statement by the prime Minister in the year 1978 and by the Minister of State for Home Affairs in 1979 that the findings in the reports of Netaji Enquiry Committee and Commission of Enquiry were not conclusive and decisive for any further or fresh enquiry and no serious effort in this behalf has been made. It seems lapses have occurred from time to time and public at large is dissatisfied. It is, therefore, necessary that respondents are told that their silence may not be appreciated in the matter and they for obvious reasons, as indicated above, should proceed in some effective manner to enquire into the circumstances of the death, whether Netaji has died and if he is alive where is he, with due despatch. Various publications some saying Netaji has died, some saying - No, he has not, some accepting the plane crash story, some not accepting it, some suggesting that the ashes in the temple in Japan are that of Netaji and others not accepting, some believing, and seriously, that Netaji is still alive and is available in some part of the world cause confusion and sometimes irritation and anger in public. No publication which would affect the friendly relations with foreign states, public order, the sovereignty and integrity of India, cause defamation or incitement to an offence should be

permitted. we have reasons to think that such irresponsible publications do sometimes affect public order and cause incitement to violence.

Some publications in respect of which mention is made by the petitioners which are per se defamatory to the National Hero Subhas Chandra Bose. One of the most cherished rights of the Indians is the freedom of speech and expression, yet it is important that this right is not exercised to disturb public order or cause incitement to offence or defamation. We have not, however seen such publications as a whole except such excerpts which are quoted by the petitioner for forming any conclusive opinion that books already published need to be prescribed. Yet we are satisfied that there is a need to give a fresh look to such publications and prescribe such books or such portion of the books which spent one way or the other on the subject of the death of Netaji Subhas Chandra Bose's pre-independent activities in respect of which the Government of India is yet to complete enquiry. All fresh or new publications, in our view, shall also need a similar scrutiny and all such scrutiny shall be made keeping in view Article 19(1)(a) read with Article 19(2) of the constitution of India and the observations made above.

For the reasons aforementioned, we are inclined to direct as follows :-

- (1) Respondents shall launch a vigorous enquiry & in accordance with law by appointing, if necessary, a commission of enquiry as a special case for the purpose of giving an end to the controversy
 - (a) whether Netaji Subhas Chandra Bose is dead or alive ;
 - (b) if he is dead whether he died in the plane crash, as alleged ;

14.

- (c) whether the ashes in the Japanese temple are
ashes of Netaji ;
- (d) whether he has died in any other manner at any
other place and, if so, when and how ;
- (e) if he is alive, in respect of his whereabouts.
- (2) The respondents shall follow for the said purpose
the directions of this court given in W.P.No.1805
of 1997 namely, to take the people of India in
confidence ;
- (3) Respondents shall at appropriate level examine/
scrutinise all publications pertaining to the matter
as above and prescribe, if necessary, all such
publications which appear to touch the question
of death or otherwise of Netaji if the same has
the effect of disturbing the public order and causing
incitement of violence ;
- (4) Respondents, if so advised, shall inform all
publication houses to take its prior permission
before any publication on the subject above is
made and before granting such permission, scrutinise
in the manner as indicated above. ✓

This disposes of the writ application.

All parties are to act on a signed xerox copy of this
judgement and order on the usual undertaking.

Sd/- prabha Shanker Mishra

B. Bhattacharya, J.

I agree.

Sd/- B. Bhattacharya

24/98
21/6

W.P.No.281 of 1998

In the High Court at Calcutta
Constitutional Writ Jurisdiction

Original side

Rudra Jyoti Bhattacharjee & Anr.

vs.

Union of India & Ors.

(public interest litigation matter)

Date of Judgement : April 30, 1998.

(i) Date when the writ was completed - 16.6.1998
(ii) Date of application for writ - 10.6.1998
(iii) Date of filing the writ - 16.6.1998
(iv) Date of completion of writ - 16.6.1998
(v) Date of completion of writ - 25.6.1998
(vi) Date of completion of writ - 25.6.1998

25.6.98
RECEIVED
CIVIL DEPARTMENT

Judgement delivered by the Hon'ble Mr.
prabha Shanker Mishra, Chief Justice
and the Hon'ble Justice B.Bhattacharjee

Filed this 16th day of June, 1998.

Registrar.

SECRET

No.S-122/87-FCRA-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, the 28 APR 1988

Subject:-Transfer of funds (Rs.114 crores) to the Govt. of India from Burma, Japan and Singapore for construction of Netaji Memorial in Delhi - claim of Shri V.K.C. Ramalingaswami Nadar.

In continuation of this Ministry's O.M. even number dated 28th January 1988 on the subject mentioned above (copy enclosed for ready reference) the undersigned is directed to say that PM's Office has requested for the present position of the case vide their U.O. No.2(64)/88-PM, dated April 20, 1988 (copy enclosed). The same may kindly be intimated directly to PM's Office.

Sd/-(KANSHI RAM)
Deputy Secretary to the Govt. of India

Ministry of Finance,
Deptt. of Economic Affairs,
(Banking Division)
(Shri Mantreshwar Jha, Jt. Secretary)
New Delhi.

No.S-122/87-FCRA-I

New Delhi, the 28 APR 1988

Copy to Shri H.C. Baskshi, Director, Prime Minister's Office New Delhi with reference to PM's Office U.O. No. 2(64)88-PM, dated April 20, 1988. Latest position may kindly be asked from Ministry of Finance when the case was transferred. PM's Office was earlier informed vide this Ministry's U.O. No.Dy.S-122/87-FCRA-I, dt. 30.11.87.

Sd/- (KANSHI RAM)
Deputy Secretary to the Govt. of India.

प्रमाणित है कि यह प्रमाणित
AUTHENTIC FOR ISSUE

अनुमानित है कि यह
Section Officer

Ministry of Home Affairs

22-4/1988/1000

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Secret
Immediate
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S. No. 18
2/64/56-70-70 (Vol. V)

R. Vasudevan,
Deputy Secretary.

D.O. No. F. 25/43/70-poll-II
Ministry of Home Affairs.

Dated: 18.11.1970

Dear Shri Dass,

✓ I am desired to enclose a copy of the letter addressed to the prime Minister by Shri Chitta Basu, M.P. and to request that the considered views of the Commission may kindly be forwarded to us. The Ministry of External Affairs will be requested to assist in securing such documents as are considered relevant by the Commission.

Yours sincerely,

Sd/- R. Vasudevan

Shri R.K. Dass,
Secretary,
Netaji Inquiry Commission,
Ministry of Home Affairs,
New Delhi.

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MOST IMMEDIATE
SECRET

MINISTRY OF HOME AFFAIRS
(FCRA - I)

Sub:- Regarding transfer of Rs. 114 crores to the Govt. of India from Burma, Japan and Singapore for construction of Netaji Memorial in Delhi.

.....

Prime Minister's Office may please refer to their U.O. No.2(64)/87-PM dated the 5th March, 1987, on the subject noted above. Since the subject matter pertains to the Ministry of Finance, the original papers alongwith I.B.'s report obtained in the matter (copy enclosed) are being transferred to the Ministry of Finance for settlement of the claim and to send a reply to Prime Minister's Office

Indira Misra

(INDIRA MISRA)
JOINT SECRETARY TO THE GOVT. OF INDIA.

Prime Minister's Office (Shri Pulok Chatterji, Dy. Secy.)
MHA U.O. NO.Dy.S-122/87-FCRA-I dated the 27th November 1987

30 NOV 1987

Copy to the Ministry of Finance w.r.t. their No.36/22/87-B.O.III dated the 14th July, 1987, alongwith all the original papers and I.B.'s report for settlement of the claim and to send a suitable reply to the Prime Minister's office.

(INDIRA MISRA)

JOINT SECRETARY TO THE GOVT. OF INDIA.

St. - III
DPs

We may find
14/8 for
Ministry

Papers are placed
below for
file
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14 to PM may like to see for
only action with ref to this note
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Review
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5/10/87
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11/11/87

A suspension with 6th
for 14/11/87
Spelling



S. BANDYOPADHYAY
DEPUTY SECRETARY

PARLIAMENTARY SECRETARY
D.O.No. 21/52/78
GOVERNMENT OF INDIA
गृह मन्त्रालय
MINISTRY OF HOME AFFAIRS

NL/DLHI-110001,

November 21, 1978

Dear Shri Speakerman,

With reference to Rajya Sabha Starred Question Dy. No. 102 on the subject of INA Treasure which the Ministry of External Affairs is said to have transferred to the P.M.'s Office.

2. The Ministry of External Affairs had requested us to check up whether the subject of INA Treasure was at any stage brought to the notice of the Khosla Commission in view of part (g) of the Question. A perusal of the records in this Ministry shows that whatever documents were required by the Commission were furnished by the Ministries concerned either directly or through this Ministry and the papers had, after the winding up of the Commission, been returned to the respective Ministries direct. It is not, therefore, possible to indicate how much of the records pertaining to INA Treasures were made available to the Commission. It is however observed that the Ministry of External Affairs's file No. 25/4/NGC-51 on the subject was specifically asked for by the Commission in March, 71. Whether it was actually furnished to the Commission or not may have to be checked up with reference to the correspondence in the Ministry of External Affairs's file No. C/551/8/70-JP and C/551/4/72-JP. Similarly file No. 23(11)/56-57-PM on the subject of "INA Treasure" had been furnished by the P.M. Sectt. to the Commission. It was returned by the Commission and acknowledged in your D.O.No. 2/64/74-PM dated 27.7.74.

3. In view of the above and since a mention has been made to the subject in para. 8.51 of its Report by the Commission it appears that the records pertaining to the INA Treasure were made available to the Commission.

4. A copy of the final answer that may be given to the House may kindly be furnished to us also for our record.

Yours sincerely,

(Signature)
21.11.78.
(S. Bandyopadhyay)

Shri S. Bandyopadhyay,
P.O. Secy.,
P.O. Secy.,
P.O. Secy.,

Encl 14/11
Encl 12/11



B.K. GOSWAMI
DEPUTY SECRETARY

2/64/56-70 Pm (Vol. V)

S.No-34

SECRET

No.24/6/71-Foll.1

भारत सरकार
GOVERNMENT OF INDIA

गृह मन्त्रालय
MINISTRY OF HOME AFFAIRS

NEW DELHI
NOVEMBER ,1971.

10 NOV 1971

Dear Shri Tandon,

Kindly refer to your letter no.PMS 23774 dated 23rd October, 1971, addressed to Shri Srinivasavaradan, regarding the visit of the Netaji Inquiry Commission to Taihoku.

2. The question of the visit of the Netaji Inquiry Commission to Taiwan was examined towards the close of 1970 on a suggestion from the Commission itself. The Ministry of External Affairs informed us, after enquiries from our Commission in Hong Kong, that the Taiwan Government are not willing to extend facilities to the Commission unless an official request in that regard was made to them by the Government of India. It was also clarified by that Ministry that the Government of India would not be in a position to take up the matter officially with the Taiwan Government because we do not recognise the Government of Taiwan. In the circumstances it has not been possible to arrange for Commission's visit to Taiwan.

Part of letter file not used

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Kind Regards

Yours sincerely,

B.K. Goswami
(B.K. GOSWAMI)

Shri B.N. Tandon,
Joint Secretary to
Prime Minister,
P.M.'s Secretariat,
New Delhi.

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No. 2/64/56-68:PM (Vol IV)

146

COPY NO. _____

S E C R E T

MINISTRY OF HOME AFFAIRS

Note for the Cabinet

Subject:- Disappearance of Netaji Subhas
Chandra Bose in 1945.

In April 1956, in response to the public demand, Government of India appointed an Enquiry Committee to ascertain the circumstances concerning Netaji's departure from Bangkok on 16.8.1945 and his alleged death in an air-crash. The Committee consisted of the following:-

- (i) Shri Shah Nawaz Khan, M.P.,
Parliamentary Secretary to the
Minister of Railways and Transport;
- (ii) Shri Suresh Chandra Bose, elder
brother of Netaji Subhas Chandra Bose;
and
- (iii) Shri S.N. Maitra, I.C.S., formerly Chief
Commissioner, Andamans and Nicobar.

The Committee examined witnesses in Delhi, Calcutta, Bangkok, Saigon, Tourane and Tokyo. They also examined books and articles about Netaji Subhas Chandra Bose and studied relevant classified records pertaining to the matter.

2. The members compared and discussed the statements of the witnesses whom they had personally interviewed and took into consideration the evidence from several sources. The three members of the Committee then arrived at certain broad conclusions and

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SECRET

unanimously agreed that the report should be written on the basis of these conclusions. These were summarised in a list entitled "Principal points agreed to for Draft Report dated 30.6.1956". This was signed by all the three members of the Committee on 2.7.1956.

3. Shri Suresh Chandra Bose had agreed with the principal conclusions and signed the documents containing these on 2.7.1956. The conclusions confirmed that Netaji had, in fact, met his death in the crash on the 18th August, 1945 at Taihoku. Shri Suresh Chandra Bose, however, submitted a dissentient report stating that there had been no plane crash involving Netaji's death as concluded in the Committee's Report.

4. The Cabinet considered the Report of the Enquiry Committee signed by Shri Shah Nawaz Khan and Shri S.N. Maitra on 9th September, 1956 and accepted the finding that Netaji had, in fact, met his death as a result of the air-crash on 18th August, 1945. The Cabinet also decided that "the question of bringing over Netaji's ashes to India might be left for future consideration". A copy of the Report was laid on the Table of the House by late Prime Minister Nehru on 11th September, 1956 when he informed the House that the Government had accepted the findings of the Committee. The dissentient report too was placed on the Table of the House on 12th December, 1956, and in doing so the Prime Minister again confirmed that the Government had

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- 3 -

SECRET

accepted the majority report.

5. Briefly, the conclusions of the majority were that about the spring of 1945 the defeat of the Axis Powers became likely, and Netaji Subhas Chandra Bose began thinking of the future activities of himself on the one hand, and of the Indian Independence League and the Indian National Army on the other. As regards himself, he decided to leave South East Asia and to take refuge in Russia, whence, in due course, he could re-emerge and continue the struggle for India's freedom against the British. As regards the Indian Independence League and the Indian National Army, he appeared to be undecided and desired to consult with his allies, the Japanese, before imparting final instructions.

6. With a view to implementing these intentions he left Bangkok on the 17th August, 1945, for Saigon, whence he had been promised passages for himself and 6 companions by a Tokyo-bound Japanese military plane.

7. At Saigon, however, there was a serious disappointment: only two passages in an Air Force bomber were offered by the Japanese Military Command, which, as a consequence of Japan's surrender to the Allies on the 15th August, 1945, found itself short of air transport. After some discussion Netaji found himself obliged to accept the 2 passages offered, and with the approval of his companions selected Col. Habibur Rehman to accompany him. Netaji and Col. Rehman accordingly took off for

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- 4 -

Tokyo by the bomber about 5.00 p.m. on the 17th August, 1945.

8. Apart from Netaji and Col. Rehman the bomber included 6 Japanese Service Officers as passengers, and a crew of 5 or 6 persons.

9. The bomber landed for the night at Tourane on the Indo-China coast at about 7.30 p.m., and took to the air again with the same inmates at 5.00 a.m. the next morning. The next brief stop was at Taihoku in Formosa in the early afternoon of 18th August, 1945. While taking off from Taihoku later in the afternoon, however, the propeller and the port side engine of the bomber which appears to have been defective even from the start, suddenly dropped out, with the result that the plane immediately crashed about 50 metres off the run-way and burst into flames. Suffering from severe burns Netaji was carried into the Taihoku Military Hospital, where after some hours he passed away.

10. Two days later, on the 20th, his body was cremated in the Taihoku Crematorium. His ashes were collected and temporarily kept in the Nishi (West) Honganji Temple in that city until the 7th September, 1945, when they were flown to Tokyo. There they have since been lying in the Renkoji Temple.

Dissentient
Report

11. The main burden of Shri Bose's dissentient report is that late Prime Minister Nehru had already made up his mind and had agreed to the enquiry only in

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response to a pressing demand from a large section of the people. Secondly, Shri Bose has charged that two of the members of 3-man Committee were under a "mandate" to arrive at findings which would conform with the pre-conceived notion of the late Prime Minister Nehru that Netaji was dead. He has also charged that he was not taken into confidence by the other two members and was not shown all the relevant material to institute an impartial enquiry. The Committee, he has asked was dominated by the two official members and considered only selective evidence which would only enable them to arrive at the pre-conceived conclusion that Netaji had died in the crash at Taihoku. Shri Bose has gone further to charge that some of the officials of the Government of India had tried to harass and pressurise him into accepting the conclusions of the other two members.

12. Shri Bose mainly picked up small contradictions in details relating to the height of the aircraft, timing of the aircrash, etc. He also maintained that there was evidence contradicting that there was any aircrash at all. This dissentient report was carefully examined by the Government and when laying the report on the table of the House on 12.12.1956, Prime Minister Nehru said that Government adhered to their acceptance of the majority report.

13. There have been repeated demands for undertaking another enquiry ever since the Shah Nawaz Khan Committee Report was published. However, Government

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- 6 -

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having accepted the findings of the Committee, have taken the position that unless fresh evidence or new facts were brought to light a further enquiry was not warranted. Rumours about Netaji's survival and whereabouts, etc., have cropped up repeatedly. Each of these, whenever brought to Government's notice, has been investigated and generally found to be baseless. In 1962, rumour was spread that a Sanyasi of Shaulmari Ashram was in fact Netaji. The Sanyasi, Swami Shradhanand himself denied the rumour. Another claim made by Dr. S.N. Sinha that Netaji was incarcerated in Cell No. 46 of Yakutusk prison in Siberia has not been corroborated by any tangible evidence. Lt. Gen. Fujiwara of Japan who came to India to present Netaji's sword, while urging for further investigation, did not produce any evidence to contradict the findings of the Shah Nawaz Khan Enquiry Committee. Recently a press report in a Bengali Daily, "Jugantar", based on information given by an ex-Indian army personnel, presently employed in West Bengal Police (as Inspector of Police, Security Control, Calcutta), that Netaji left Singapore by submarine towards the end of 1945 was investigated and found to be hearsay and vague information. The latest instance is of the news report claiming that Netaji Subhas Chandra Bose had spoken from Radio Moscow after the Tashkent Agreement. On checking up with Radio Moscow authorities, it was discovered that a student by

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the name of Subhas Chandra had in fact made the broadcast.

Correspondence between Prime Minister Nehru and Shri Amiya Bose

14. It has been claimed by Shri Amiya Nath Bose that Prime Minister Nehru, in his letter of April 22, 1964, to him, had accepted that "something should be done to finalize the question of Netaji's death". However, there is nothing to suggest, in the context of the entire correspondence, that at any time Prime Minister Nehru had entertained any doubts about the conclusions of the Shah Nawaz Khan Committee Report. Presumably, what Shri Nehru had in mind was that something should be done to persuade those who still doubted this fact to accept the finality of the conclusions that Netaji was no more. Shri Amiya Bose has however claimed that a month before his death, Pandit Nehru had agreed that a proper enquiry Commission should be formed.

Memorandum by 350 M.Ps.

15. On December 26, 1967, about 350 Members of Parliament sent a memorandum to the President demanding a fresh enquiry into the reported death of Netaji Subhas Chandra Bose. They had urged that further enquiry be made in collaboration with the Governments of Japan and Taiwan. This memorandum was discussed at a Meeting of Secretaries held under the Chairmanship of the Cabinet Secretary on 16th February, 1968 to examine the various points raised. As far as the question of a fresh enquiry was concerned, the meeting

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was of the view that this was not warranted as no fresh evidence had been brought to light. This recommendation was brought to the Prime Minister's notice in connection with a question in the Lok Sabha on 21.2.1968. The Prime Minister, in reply to the question, stated that "since no new facts have been brought to light, Government do not consider that any fresh enquiry is warranted."

Recent
requests for
official
enquiry

16. Shri Samar Guha wrote in May this year to the Prime Minister requesting for a judicial enquiry on the analogy of the enquiry being conducted in regard to Gandhiji's assassination 20 years after Mahatmaji's death. The Foreign Minister in reply to this letter informed Shri Guha that the terms of reference of the enquiry being conducted into Mahatma Gandhi's assassination did not seek to establish Gandhiji's death. In the letter sent to the Prime Minister by 44 M.Ps., dated August 7, the request for the appointment of a fresh enquiry Commission, consisting of retired Supreme Court Judges and eminent public men, has been made on the ground that a fresh probe was being conducted in regard to the assassination of Mahatma Gandhi and that a judicial enquiry was also being conceded in response to a number of M.Ps' request into the cause of death of the Jan Sangh Leader Shri Dindayal Upadhyay. It is quite obvious that these two examples that have been cited are not on all fours with the demand for an enquiry to establish the death of Netaji Subhas Chandra Bose.

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17. The question of inquiry was again raised in the Lok Sabha on August 22, 1969 during the course of interpellation on Starred Question No.8 Shri S.M. Banerji wanted to know why the Government could not appoint another Commission to inquire into the whole thing. The Home Minister replied "This matter is under the active consideration of the Government. The Prime Minister has recently received certain memorandum from Members of Parliament and we are very actively considering this."

18. It is for consideration whether a Commission of Inquiry should be appointed. In case it is decided that such a Commission should be appointed, it may consist of a single Judge of the Supreme Court. Minister of Home Affairs and Minister of External Affairs have seen this note.

(L. P. Singh)
Secretary to the Govt. of India

/32/132/69-Poll.I(A)/

NEW DELHI-1.

The 1st September, 1969.

Cabinet Secretariat



D.O.No. I/12014/27/93-IS-D III

S.No.4 (R)

413

SECRET

गृह मंत्रालय

भारत

नई दिल्ली-110001

HOME MINISTER

INDIA

NEW DELHI-110001

Dear PV Narsimharaju,

Earlier this year, the question whether mortal remains of Netaji Shri. Subhash Chandra Bose should be taken possession of in Tokyo and brought to India had acquired some urgency since the birth centenary year of Netaji is due in 1997. On this issue, my Ministry had taken a note to the Cabinet. The Cabinet, while deferring the subject in its meeting on 8.2.1995 decided that the Ministry of Home Affairs may examine the dependability of arrangements in Japan and draw up a contingency plan for the proper up-keep of the mortal remains and our Ambassador be specifically requested to look into these aspects. Alongside, it was decided that efforts be made for creation of a favourable public opinion, in case a decision is taken to bring back the ashes to India.

2. The Ministry of External Affairs examined the matter in consultation with Indian Ambassador in Tokyo and have given the following opinion/suggestions -

i) The ashes of Netaji seem to be housed in an adequate manner in the Rankoji Temple, Tokyo, Japan. However, according to the Japanese tradition, there is no security at the Temple against any deliberate attempt to create problems. It is perceived that any request for strengthening of security may not go down well as the Rankoji Temple where the ashes are kept, is a place open to all.

ii) The pressure for shifting of the ashes from Japan to India is mainly from the old associates of Netaji who are advancing in age and who feel a personal sense of responsibility for the ashes. Rev. Mochiziki, Priest Incharge of the temple has stated that he has absolutely no problem in continuing to look after the ashes and that he has no intention of doing anything without the full consultation and approval of the Government of India. It would thus appear that the overall situation is such that it does not warrant any precipitate action for moving the ashes. It may, however, be desirable if the contribution of Yen 6 lakh per annum donated by Government of India for the up-keep of the ashes is raised to Yen 1 Million.

The Foreign office of Japan Government has on a number of occasions enquired whether in the light of the forthcoming 50th anniversary of Netaji's death and the centenary year in 1997, there is any proposal for shifting these ashes to

1. C. INGOI

Dr. 545/5/95

Date 21-11-95

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11/11/95



114
गृह मंत्री
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

India. The action of the Japanese Government has been more in nature of an enquiry than a suggestion. MEA feels that the Foreign office of Japan is unlikely to take any action in the matter without consulting the Government of India.

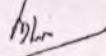
iv) Regarding the contingency plan, MEA has suggested that in the event the ashes are to be removed from the temple but not shifted to India, the only location to house the ashes would be the Indian Mission in Tokyo, where it could be kept in a strong room. This would, however, amount to acceptance by the Government of India that the ashes are those of Netaji. For this reason, it has been suggested that status quo should be maintained till a consensus is worked out in India for bringing the ashes.

3. In the light of the above opinion/suggestions of the Ministry of External Affairs, and in absence of any perceptive pressure either in Japan or India, it is felt that there does not appear any immediate need for disturbing the status quo till such time we are able to create a favourable public opinion in the country to bring back the ashes of Netaji to India.

4. In view of the facts enumerated in paras 2 and 3 of this note, PM may kindly consider the maintenance of 'Status Quo' in the matter.

With regards,

Yours sincerely,


(S.B. CHAVAN)

Shri P.V. Narasimha Rao,
Prime Minister,
South Block,
NEW DELHI.

SNo (2)

TOP SECRET
Copy No. 1/2

MINISTRY OF HOME AFFAIRS

Sub.: Controversy regarding Netaji's death and bringing his ashes to India from Japan.

Principal Secretary to Prime Minister may please refer to his UO No.870/11/P/10/93-Pol. dated the 13th October, 1993 and this Ministry's UO of even number dated 20th April, 1994 on the above subject.

2. The matter was placed before the Committee of Secretaries which discussed it in its meeting held on 20th July, 1994. After deliberations, it arrived at the following conclusions:

- (i) Since the Articles had not attracted any media attention so far, it was unlikely that such a contingency would arise in the future. Even in the unlikely event of these Articles appearing in the local media, its ripple effects were likely to be minimal since the basic thrust of the Articles did appear to project Netaji in a patriotic light as an opponent of fascism. However, some sensitivity did attach in this very suggestion of an association - presumably even if false - such as Netaji with MI-6. Prudence demanded, therefore, that GOI response on this issue should be minimal and as low key as possible. In fact, the issue is best left alone and if possible, allowed to be forgotten.

As regards the question of taking possession of the ashes was concerned, no particular advantage lay in taking a decision on this at this juncture since the birth centenary celebrations were due only in 1997. Therefore, a view could be taken in the matter in 1996-97 and till such time status quo should be maintained. The temple management may be persuaded to continue with the upkeep of the ashes and, if necessary, the maintenance charges being paid to the temple may be suitably increased to meet the increased cost.

- (iii) Since it was best that as little publicity as possible was given to the entire issue, it was felt that it may not be necessary to place this matter before the Cabinet. PM may be apprised

Contd..... 2/-

TOP SECRET

(116) (183)
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-: 2 :-

accordingly and his directions obtained.

3. PM may kindly be apprised of this for his directions.

(K. PADMANABHAIAH)
Home Secretary

Shri A.N. Varma, Principal Secretary to PM

MHA UO No.I/12014/27/93-IS(D.III) dated 9th August, 1994.

TOP SECRET

870/11/P/10/93 Vol. 117

SECRET

MINISTRY OF HOME AFFAIRS

Subject: Controversy regarding Netaji's death and bringing his ashes to India from Japan.

Principal Secretary to Prime Minister may please refer to his U.O. No. 870/11/P/10/93-Pol. dated 13th October, 1993 on the above subject.

2. The matter was examined after obtaining copies of the two articles (three issues) that appeared in the bi-monthly magazine "Asia and Africa Today", in Moscow, in September, November and December, 1993. It was found that the second article by Mr. V. Touradjev (two issues) entitled "Whom Subhash Chandra Bose Fought against during the Second World War Years" was mainly intended to show that Netaji cooperated with the British Secret Service MI-6 and was a British plant in the heart of the Axis powers. Although the allegations are based on indirect evidence and are more or less speculative, yet they have serious potential of whipping up popular sentiments in India. The entire findings are based on alleged Soviet intelligence reports from Afghanistan and other places. There is reportedly no separate file on Netaji in the KGB Archives.

3. Views of MEA, IB and R&AW were ascertained. MEA feels that there is no need for over-reacting to the publication of such allegations, as there has been no publicity of these articles either in Russia or India. Mr. Touradjev has told our Embassy in Moscow that he has no plan to write any further articles unless further archival material becomes available to him from KGB Archives. IB is of the opinion that such publications, alleging links of Netaji and his associate with MI-6 and KGB, will evoke wide-apread reactions and could cause discomfiture to the Government. People in India would consider it to be a sinister design to tarnish the image of Netaji. R&AW has expressed similar views and is of the opinion that the possible replay of these write-ups in the Indian media has explosive potential.

4. In view of the sensitivity of the matter, we feel it would be prudent to take pre-emptive action to forestall further publications of such articles. MEA has, therefore, been asked to take up the matter with the Russian authorities at an appropriately high level to prevent publication of similar articles in future.

5. As for the controversy about Netaji's death and his mortal remains at Renkoji Temple in Tokyo, the matter has indeed assumed considerable urgency. It is being placed before the Committee of Secretaries (Core Group) for evolving a strategy, whereafter the matter would be placed before the Cabinet.

(N.N. Vohra)
Home Secretary

Shri A.N. Varma,
Principal Secretary to P.M.

MHA U.O.No. 1/12014/27/93-IS.DIII

Dated: April 20, 1994.

RL SECY to PM

BY No. 1103-5

Date: 22/4/94

J.S. (N)'S OFFICE

Current Dy No. 1103-5

(118) (197)
(3) (4) (20)
SECRET
IMMEDIATE

MINISTRY OF HOME AFFAIRS
FOREIGNERS VII SECTION

Reference enclosed copy of letter dated 1-9-79 and of its enclosures, from Shri T.N. Singh, Governor of West Bengal, addressed to the Home Secretary, regarding establishment of identity of Mrs. ANITA PFAFF (daughter of Netaji Subhash Chandra Bose).

A

2. This Ministry have no records pertaining to Netaji's reported marriage to a foreign lady or birth of a female child by that marriage. Intelligence Bureau has also been consulted and they have no record in this regard. Before sending a reply to the Governor on the above lines, this Ministry would like to be sure whether at any stage the then Prime Minister's Secretariat (now Prime Minister's Office) or the Ministry of External Affairs or the Cabinet Secretariat (R.A.W.) have been aware of visit to India of Miss Anita in 1960 and information supplied in this connection or if there are any papers to indicate Netaji's reported marriage to a foreign lady and birth of a female child by that marriage. We shall be grateful to have an urgent reply to this note.

Vinay Vasishtha
(VINAY VASISHTHA)

UNDER SECRETARY TO THE GOVT. OF INDIA
Tel: 611984.

Prime Minister's Office (Sh. Prakash Shah, Joint Secy. to P.M.)

Ministry of External Affairs (Sh. N. Ravi, US (EE))

Cabinet Secretariat (Research and Analysis Wing)
(Sh. H. D. Dittva, Deputy Director)

MHA U.O.No.25022/109/79-F.VII Dated 6-2-1980.

Pr. clerk

Is/c.s.) Any papers?
7/2

Pr. III

Ry 2/2

P.2/W
Smo 5

/ C O P Y /

(8)

RAW BRAWNI
Calcutta 1,

September 1, 1979.

Government of West Bengal

Dear Shri Varadan,

To the best of my recollection, Sardar Patel in his life time came to know of a daughter born to Netaji Subash Chander Bose in Germany as a result of marriage with a foreign girl. There must be some record in the Home Ministry as some money was remitted to her for her education and maintenance. One Smt. Anita Pfaff came here and met me. She was introduced to me by Dr. Sisir Bose as the daughter of Netaji. I had no reason to disbelieve him. Now I have received a letter from one Shri Arun Ghose which causes doubts on the whole position. I hope it should be possible to trace from the records of the Home Ministry about the real facts. I am enclosing a copy of the letter which gives details in this regard.

With best wishes,

Yours sincerely,

Sd/-

(T. N. Singh)

Shri T.C.A. Srinivasavaradan,
Secretary,
Ministry of Home Affairs,
North Block, New Delhi 110001.

/ C O P Y /

Exclusively personal and Private

30 Aug. 1979.

Revered M. .Sinhaji,

I came to learn from the Calcutta dailies that you have cordially received Mrs. Anita Pfaff, the so called daughter of Netaji Bose. You have been miscarried by cheap sentiment, because you do not know the back-ground of this canard as well as the character of Bose family of the day.

You are a freedom fighter and I being an executive member of All India Freedom Fighter's Samity (Regd.) it is my duty to bring you into light to establish the truth. The said girl is a posthumous child of one Co. Erizette of the then Asix tower. Her mother Mrs. Erizette died after a few months of delivery. Miss Edie Shenkle was intimate friend and close door neighbour to this Erizette family and she took up the orphan as adopted daughter. A conspiracy duly hatched up by the Allies in Colaboration with Pro-British Congressmen to assassinate the ~~po~~ character of ardent bachelor Netaji Bose.

For your personal satisfaction I will request You to collect the official data of Mrs. Anita and her real identity in the decade of sixties when she was brought to India by Mr. Nehru, the then P.M. of India, for the first time. What was in her passport and visa papers? Just enquire from the Home Deptt. and External Affairs Ministry. Also you should contact the Austrian authority to know whether any such girl did go through any school or University of Vienna or Austria whose father's name was Sri Subhas Chandra Bose. Don't be misguided by any member of so called Bose Family of the day. I was deeply connected with senior members of Bose family of the past.

With best wishes,

Yours sincerely,
Sd/- (Arun Ghose)

~~Address:~~

15, Jada Bhattacharya Lane,
Calcutta - 700026.

(231/121)

SECRET/MOST IMMEDIATE

CABINET SECRETARIAT
RASHTRAPATI BHAVAN

.....

Subject:- Declassification of records.

.....

Kind reference is invited to PMO UO No. 16(4)/2000-NGO dated 15.9.2000, on the above subject.

2. The background notes for consideration of the Cabinet on 'Proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India' (dated 2.2.1995), 'Fresh inquiry into disappearance of Netaji Subhas Chandra Bose in 1945 - Demand for' (dated 18.2.1970) and the Core Group on 'Controversy about Netaji's death and allegations that he was an MI-6 Agent' (dated 16.5.1994) were received from MHA.

3. The minutes will have the same grading as the notes which have originated from MHA. This Secretariat has no objection to whatever grading MHA may wish to give these background papers. It is, therefore, for MHA to decide the grading of these papers.

The Cabinet Secretariat has already informed MHA that the Government of India has decided to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India. So the Government of India has decided to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India.

18.9.2000
(Ravi Mital)
Director.

PMO. [Ms. Archana Ranjan, Director].
Cabinet Secretariat ID Note No. 281/12/1/2000-TS dated 18.9.2000.

Copy to Shri A.K. Paitandy, Director, MHA.

18.9.2000
(Ravi Mital)
Director.



S.No 28 (R)

SECRET

राष्ट्रीय संग्रहालय
NATIONAL MUSEUM

122

Dr.R.D.Choudhury
Director General

No.F.DGNM-2/2000

Phone: 3018159

November 2, 2000

Dear Ms Gairola,

Kindly refer to the telephonic talk held with Shri A.K.Paitandy, Director (IS - 1) MHA by me and Shri U. Das, Assistant Director(Adm.), on 1.11.2000 regarding PMO's letter No.16(4)2000-NGO for declassification of treasures of Netaji in connection with the inquiry into the alleged disappearance of Netaji Subhash Chandra Bose which is being inquired into by Justice Mukherjee Commission.

In this context the Department of Culture desired that I may consult the Ministry of Home Affairs for advise in the first instance.

I shall be grateful if you kindly inform whether these treasures could be shown to the Commission.

With regards,

Yours sincerely,

(R.D.Choudhury)

Ms.Sangita Gairola
Joint Secretary(IS-1)
Ministry of Home Affairs
North Block
New Delhi-110001

Copy to:

1. Shri S.Satyamoorthy, Joint Secretary, Department of Culture, Shastri Bhawan, New Delhi
2. Shri Ravi Mittal, Director, Cabinet Secretariat, Rashtriyaapati Bhawan, New Delhi.
3. Ms.Humera Ahmed, Director, Department of Culture, Shastri Bhawan, New Delhi w.r.f. to her letter dated 3.10.2000.
4. Shri G.B. Singh, Director, Ministry of Defence, History Division, West B Block No.8, R.K.Puram Sector-1, New Delhi-66
5. Shri P.Mehendru, Joint Director, IB, Ministry of Home Affairs, North Block, New Delhi.
6. Shri S.Thomas, SO(NGO) Ministry of External Affairs, South Block, New Delhi.

7. Mrs. Archana Ranjan, Director, Prime Minister office, South Block, New Delhi.

(R.D.Choudhury)

जनपथ, नई दिल्ली-110011; तार: संग्रहालय; दूरभाष: 3019272, 3019322; फेक्स: 3019821 ई-मेल: rdchoudh@ndf.VSNL.net.in
Janpath, New Delhi-110011. Gram: MUSEUM; Tel: 3019272, 3019322; Fax: 3019821; E-mail: rdchoudh@ndf.VSNL.net.in

स.सं.का. (एन.बो.नो.)/PMO (NGO)
क्र. 7/11/2000
दिनांक/Date: 7/11/2000

278/सं.नं. (A)/९/२००० २१॥

S.L.M. 36 (Jha) By Speed Post

123

No.915/11/C/2/2000-Pol(Vol.I)
PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011

Dated: November 14, 2000

To

Shri P.K.Sengupta, WBHJS(Retd.)
Secretary,
Justice Mukherjee Commission of Inquiry,
'B' Block(Third Floor),
11/A, Mirza Ghalib Street,
CALCUTTA-700087.

Subject: Compliance with the orders/directions contained in the proceedings dated 28.9.2000 read with the proceedings dated 23.03.2000, 13.06.200 and 31.08.2000 of Justice Mukherjee Commission of Inquiry.

Sir,

I am directed to refer to the Commission's letter No.JMCI/Meeting-Proceedings (Follow-up)/48(Vol.II)/289(5) dated 10th October, 2000, on the above subject, and to say that since this Office is yet to receive final reply from a few Ministries/Departments about their views on declassification of the classified papers/ references available on this Office files, copies of which have already been forwarded to the Commission by this Office, it is requested that 15 days' time may kindly be given to this Office to file its consolidated Affidavit before the Commission, covering all the points mentioned in the proceedings of the Commission, from time to time.

Yours faithfully,

(ARCHANA RANJAN)
DIRECTOR

✓
Copy to NGo Section.

Sl no. 31 (Issue)

(124)

Secret
Most Immediate

PRIME MINISTER'S OFFICE

South Block
New Delhi 110 011

Sub: Justice Mukherjee Commission of Inquiry – Declassification of records.

Reference is invited to the Cabinet Secretariat's I.D. Note No.281/12/1/2000-TS dated 26.9.2000, addressed to Shri A.K. Paitandy, Director, MHA and a copy endorsed to this Office, with reference to this Office U.O. of even number dated 21.9.2000.

2. Vide Ministry of Home Affairs I.D. Note No.I.12014/13/2000-TS (D.III) dated 3rd November, 2000 view of the Ministry were conveyed with regard to 20 references. However, views/ comments of the Ministry of Home Affairs about references mentioned in Cabinet Secretariat's I.D. Note, referred to above, have not been intimated to this Office, either by MHA or the Cabinet Secretariat, so far. This Office has, therefore, not been able to finalise the Affidavit which was supposed to be filed before the Commission by 15.11.2000. As a result of this, we have requested the Commission to grant us 15 days time for the purpose. As already mentioned in this Office U.O. of even number dated 21.9.2000, copies of our files, which included classified correspondence, have already been made available to the Commission, with the request that while the information contained in PMO Top Secret files may be made use of by the Commission, in camera, the Commission may kindly consider not publishing the same. The Commission, however, in its proceedings dated 31.8.2000, inter alia, directed this Office to adduce specific reasons as to why privilege is being claimed against the disclosure of the contents thereof, more so, when the Commission is holding a public enquiry and its report will be a public document and contents of those files may have an important bearing.

3. In case MHA's advice is that papers, mentioned in Cabinet Secretariat's ID Note dated 26.9.2000, which originated from MHA or Cabinet Secretariat may continue to be classified, specific grounds for claiming privilege in each case, may please be assigned, while conveying such advice.

4. A very early reply is requested.

Ar
(Archana Ranjan)
Director

*Issued
86
15/11/2000
at 10.45 AM*
Smt. Sangita Gairola, Joint Secretary, Ministry of Home Affairs, New Delhi.
PMO UO No.G.16(4)/2000-NGO

TS
dated 14.11.2000

125

S. No. 28 (R)

SECRET
MOST IMMEDIATE

Ministry of Home Affairs

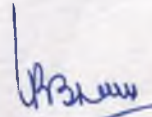
IS Division (US D.IV)

Prime Minister's Office may please refer to their U.O. Note No. G.16(4)/2000-NGO dated 14/15th November 2000 regarding declassification of certain records for submission before Justice Mukherjee Commission of Inquiry which were referred to this Ministry by the Cabinet Secretariat.

2. As regards 20 references sent to this Ministry vide Prime Minister's Office U.O. Note dated 14/15.09.2000 followed by two further U.O references dated 10.11.2000, views of this Ministry have already been sent to the Prime Minister's Office vide this Ministry's U.O. Notes of even number dated 3rd November 2000 and 15th November 2000 respectively.

3. As regards the documents referred to this Ministry by the Cabinet Secretariat, these have already been examined in the Ministry of Home Affairs and the Cabinet Secretariat has been informed vide this Ministry's I.D. Note of even number dated 13th November 2000 that except Cabinet Note No. 1/18/68-Coin dated 17.05.1968 regarding issue of commemorative stamps/coins of Netaji Subhas Chandra Bose on 21.10.1968 on the occasion of the silver Jubilee of Azad Hind Government (which pertains to Ministry of Finance, Department of Economic Affairs and as such its continued classification or declassification may be decided by the Cabinet Secretariat in consultation with Department of Revenue) the remaining documents pertain to this Ministry and it is felt that further action regarding their declassification or submission before Justice Mukherjee Commission of Inquiry may be left to be decided by this Ministry, especially since Cabinet Secretariat has conveyed that they would have no objection to their declassification if so decided by this Ministry.

Q
16/11
usg (wco)
fr. p.v. on file
17/11
The relevant file is
placed below file.
20/11/00


(V.P.BHATIA)
Under Secretary to the Govt. of India

Prime Minister's Office
Ms. Archana Ranjan, Director, New Delhi
M.H.A U.O.No. I-12014/13/2000- IS (D.III) Dated 16.11.2000

✓ प्र.सं.का. (एन.जी.ओ.)/PMO (NGO)
का.सं./Dy. No. 19215/2000
दिनांक/Date.....17.11.2000.....

284) DIR (A)/S
16/11/00

TEAM MISSION VERIFIED

W/OTHE
P/TO HWE
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10/1/11
10/1/11

Slno 33 (Issue)

MOST IMMEDIATE

/ By Speed Post

No.G.16(4)/2000-NGO
PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011

Dated: 20th November, 2000.

To

✓ The Department of Legal Affairs,
Branch Secretariat,
19th Floor, Ind MSO Building,
Nizam Palace, 234/4, A.J.C. Bose Road,
CALCUTTA (West Bengal)

Subject; - Justice Mukherjee Commission of Inquiry appointed
to enquire into alleged disappearance of Netaji Subash
Chandra Bose - production of records - regarding.

Sir,

I am directed to say that the above Commission has directed this office to produce all the files relevant to the terms of reference of the Commission with this Office, and to say that this office had given photocopies of all the files with it, including classified files. With regard to the Top Secret files, the Commission was requested that while it may make use of the information, in camera, it may consider not publishing the same. Our files also contain Secret/Confidential correspondence which originated from other Ministries/Departments/States. The Commission have, however, not accepted the plea and observed that in case this Office wants to claim privilege in respect of the classified records, it may adduce reasons as to why privilege is being claimed against the disclosure of the contents thereof, more so, when the Commission is holding a public enquiry and its report will be a public document and the contents of those files may have an important bearing. Under the extant instructions, concurrence of the concerned Ministries /Departments/States has been solicited to declassify such correspondence so that the Commission can make the same public/ publish the correspondence, if it wished to do so. In the meantime, on 14.11.2000, this Office has sought 15 days' time i.e., till 30.11.2000, to file its Affidavit before the Commission.

2. *A large number of classified papers which are available in our classified files had emanated from the Ministry of Home Affairs. That Ministry has filed its Affidavit before the Commission separately. In order to ensure that there is no contradiction amongst the various departments of Government of India, and that correct procedure is followed while dealing with the directions of the Commission, from time to time, it is requested that a Government Counsel, preferably the one already handling such matters on behalf of the Ministry of Home Affairs, may be assigned the task, for this Office, immediately, under intimation to this Office, for timely and proper briefing to the Counsel.*

Yours faithfully,

(Archna Ranjan)
Director

Issued
20/11/2000.

✓ Cpy to US (Re)

Calcutta.

Mr. No
3384903

2955215

2006497

2405510

MZA

127

4
 (जयन्त प्रसाद)
 (JAYANT PRASAD)
 संयुक्त सचिव (सी. एन. सी.)
 Joint Secretary (C.N.S.)
 विदेश मंत्रालय, नई दिल्ली.
 Ministry of External Affairs
 NEW DELHI.

IN THE COURT OF the Hon'ble Justice Mukhtyar Commission of Inquiry
 Suit/Appeal No To inquire into the alleged of of 19
Netaji Subhas Chandra Bose
 in re :-

Ptff/Applt./Petitioner/Complainant

Ministry of External Affairs, Gout. of India ^{VERSUS}

Defdt./Reopt./Accused

KNOW ALL to whom these present shall come that I/we Jayant Prasad, Joint Secretary.
 the above-named Ministry of External Affairs, Gout. of India do hereby appoint
Sri Tarakeswar Pal, Advocate, Senior Counsel-I
Room No. 5, Bar Association, High Court, Calcutta

(herein after called the advocate/s) to be my/our Advocate in the above-noted case
 authorise him :-

To act, appear and plead in the above-noted case in this Court or in any other Court
 in which the same may be tried or heard and also in the appellate Court including High
 Court subject to payment of fees separately for each court by me/us

To sign, file, verify and present pleadings, appeals cross-objections or petitions for
 executions review, revision, withdrawal, compromise or other petitions or affidavits or
 other documents as may be deemed necessary or proper for the prosecution of the said
 case in all its stages subjects to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents of opposite party,

To withdraw or compromise the said case or submit to arbitration any differences or
 disputes that may arise touching or in any manner relating to the said case

To take execution proceedings.

The deposit, draw and receive money, cheques, cash and grant receipts hereof and to
 do all other acts and things which may be necessary to be done for the progress and in the
 course of the prosecution of the said case

To appoint and instruct any other Legal Practitioner authorising him to exercise the
 power and authority hereby conferred upon the Advocate whenever he may think fit to do
 so and to sign, the power of attorney on our behalf.

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the
 Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all
 intents and purposes

And I/we undertake that I/we or my/our duly authorised agent would appear in Court
 on all hearings and will inform the Advocate for appearance when the case is called.

And I/we undersigned do hereby agree not to hold the advocate or his substitute
 responsible for the result of the said case. The adjournment costs whenever ordered by the
 Court shall be of the Advocate which he shall receive and retain for himself.

And I/we the undersigned do hereby agree that in the event of the whole or part of the
 fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to
 withdraw from the prosecution of the said case until the same is paid up. The fee settled is
 only for the above case and above Court. I/we hereby agree that once the fees is paid, I/we
 will not be entitled for the refund of the same in any case whatsoever and if the case
 prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHERE OF I/we do hereunto set my/our hand to these presents the
 contents of which have been understood by me/us on this 21st day of
November 2000 199.....

Accepted subject to the terms of the fees.

Advocate

Client

Client



विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

No 25/4/NGO-V

21st November 2000

Subject Proceedings before the Hon'ble Mr Justice Mukherjee Commission

This is to inform you that we have no witness to examine on our behalf before the Hon'ble Commission at this stage. If such occasion arises later, we shall place the same forthwith before the Hon'ble Commission.

(Jayant Prasad)
Joint-Secretary(CNV)

Shri T. Pal,
Advocate & Sr. Counsel for the Govt. of India,
Before the Hon'ble Mr Justice Mukherjee Commission.

(124)

1. Shri Jyotirmoy Prasad, Joint Secretary (CIV)
Ministry of External Affairs,
New Delhi

TEL NO 301-1357

2. SRI MANAB HANUJA, Head of Branch Sect
Branch Secretariat, MEA,
2 Ballygunge Park Road, Calcutta.

TEL - 033-2479701, 2479703)

3. D. B. BHATI,

SECTION OFFICER (NGO)

MINISTRY OF EXTERNAL AFFAIRS,
SOUTH BLOCK, NEW DELHI-110011.

Phone : 91-11-3015116

PMO

130

[Signature]

(Ashok Salkia)
Joint Secretary to PM

IN THE COURT OF the Hon'ble Justice Nukharjee Commission of Inquiry
Suit/Appeal No To enquire into the alleged disappearance of
in re :- Nataji Subhas chandra Bose.

_____ Pff/Applt./Petitioner/Complainant

VERSUS

Prime Minister's Office, Govt. of India

_____ Defdt./ Respnt. /Accused

KNOW ALL to whom these present shall come that I/we Ashok Salkia Joint Secretary to PM
the above-named Prime Minister's Office do hereby appoint

Sri Tarakeswar Pal, Advocate, Senior Counsel-I,
Room no. 5, Bar Association, High Court, Calcutta.

(herein after called the advocate/s) to be my/our Advocate in the above-noted case
authorise him :-

To act, appear and plead in the above-noted case in this Court or in any other Court
in which the same may be tried or heard and also in the appellate Court including High
Court subject to payment of fees separately for each court by me/us

To sign, file, verify and present pleadings, appeals cross-objections or petitions for
executions review, revision, withdrawal, compromise or other petitions or affidavits or
other documents as may be deemed necessary or proper for the prosecution of the said
case in all its stages subjects to payment of fees for each stage.

To file and take back documents, to admit and or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or
disputes that may arise touching or in any manner relating to the said case

To take execution proceedings

The deposit, draw and receive money, cheques, cash and grant receipts hereof and to
do all other acts and things which may be necessary to be done for the progress and in the
course of the prosecution of the said case

To appoint and instruct any other Legal Practitioner authorising him to exercise the
power and authority hereby conferred upon the Advocate whenever he may think fit to do
so and to sign the power of attorney on our behalf

And I we the undersigned do hereby agree to ratify and confirm all acts done by the
Advocate or his substitute in the matter as my our own acts, as if done by me/us to all
intents and purposes

And I we undertake that I/we or my our duly authorised agent would appear in Court
on all hearings and will inform the Advocate for appearance when the case is called.

And I we undersigned do hereby agree not to hold the advocate or his substitute
responsible for the result of the said case The adjournment costs whenever ordered by the
Court shall be of the Advocate which he shall receive and retain for himself.

And I we the undersigned do hereby agree that in the event of the whole or part of the
fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to
withdraw from the prosecution of the said case until the same is paid up. The fee settled is
only for the above case and above Court. I we hereby agree that once the fees is paid, I we
will not be entitled for the refund of the same in any case whatsoever and if the case
prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHERE OF I/we do hereunto set my/our hand to these presents the
contents of which have been understood by me/us on this 21st day of
November, 2005

Accepted subject to the terms of the fees.

Advocate

Client

Client

S.No. 34 (I)

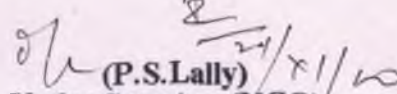
(131)

DDP & MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011

Subject:-Justice Mukherjee Commission of Inquiry to enquire into
disappearance of Netaji Subhash Chandra Bose- declassification
of records.

Ministry of External Affairs may please refer
to their U.O.No.25/4/NGO Vol. V dated September 19, 2000, on the above
subject, and today's discussions our Director, Ms Archana Ranjan, had with
JS(CNV), MEA on phone, about the stand taken by the MEA with regard
to their classified papers before the Commission. It is requested that a copy
each of the Affidavit(s) / letters sent to the Commission may please be sent
to this Office, per bearer, for our record and utilising the material to
take appropriate stand before the Commission with regard to MEA
papers available on our files.


(P.S. Lally)
Under Secretary(NGO)
Tel No. 3792507

MEA(Shri Bhatti. SO(NGO))

PMO U.O.No.16(4)/2000-NGO dated 21.11.2000



14A

SECRET

88

132

विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

JAYANT PRASAD,
JOINT SECRETARY(CNV)

No. 25/4/NGO Vol.V

October 18, 2000
November 13, 2000

Dear Shri Sengupta,

Please refer to your letter no. JMCI/Meeting-Proceedings(follow up)/48/187 dated 08.08.2000 and my letter of even no. dated 26.09.2000 regarding submission of photocopies of the nine classified files of this Ministry to the Commission.

As desired by the Commission, the photocopies of the above mentioned nine files are being forwarded herewith for perusal by the Commission. These files have since been downgraded from "Top Secret" to " Secret". However, as the files contain some papers which are still sensitive , it is requested that the Commission may kindly like to use their discretion as to the use of such material in its report.

Kindly acknowledge receipt.

Yours sincerely,

(Jayant Prasad)

Shri P.K.Sengupta, WBHJS(Retd.)
Secretary,
Justice Mukherji Commission of Inquiry,
'B' Block, 3rd floor,
11/A, Mirza Ghalib Street,
Calcutta 700 087.

[Copy to Smt. Sangeeta.Gairola, Joint Secretary(IS.I), Ministry of Home Affairs, New Delhi for information.

with bonafide copy

(Jayant Prasad)
Joint Secretary(CNV)

issued
15/11

de

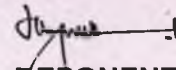
MEA



AFFIDAVIT

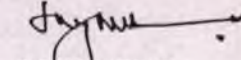
I, Jayant Prasad, Joint Secretary(CNV), Ministry of External Affairs, Government of India, South Block, New Delhi, do hereby solemnly affirms and state as follows :

2. That I have read the Hon'ble Justice Mukherjee Commission of Inquiry letter No.-JMCI/meeting/99-2000/48/98(7)-dated 29/05/2000 alongwith its enclosure and undersood its contents..
3. I would like to state that the matter has been carefully considered and the details of TOP SECRET/SECRET files available in this Ministry have been sent to Justice Mukherjee Commission of Inquiry vide my letter No. 25/4/NGO – Vol.V dated 01/03/2000 and 24/05/2000 respectively. No other documents/files relating to Netaji Subhas Chandra Bose and/or Indian National Army are the custody or control of this Ministry.


DEPONENT

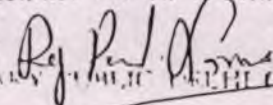
VERIFICATION

Verified at New Delhi on this 24th day of July, 2000, that the contents of the above affidavit are true and correct to my knowledge derived from the official records.


DEPONENT



Solemnly Sworn Before me


NOTARY PUBLIC, NEW DELHI (INDIA)

24 JUL 2000

S. No. 35 (I)

134

SECRET
MOST IMMEDIATE

PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110001.

Subject:-Justice Mukherjee Commission of Inquiry to enquire into
alleged disappearance of Netaji Subhash Chandra Bose -
Declassification of classified records.

Ministry of Home Affairs may please refer to their U.O.No.
I-12014/13/2000-IS(D.III) dated 16.11.2000, on the above subject.

2. Since we have to file an Affidavit before the Commission immediately with regard to declassification of classified papers, including those which had originated from Cabinet Secretariat/MHA, and also to claim privilege with respect to such papers, with proper justification, if any or all of those papers are still to retain any classification, it is requested that final stand of the MHA in the matter may please be expedited. Based on the stand of the MHA, this Office would formulate its own stand to be taken before the Commission regarding the notes portion dealing with such classified documents available on PMO files.

3. A very early response is requested.

 (ARCHANA RANJAN)
DIRECTOR

MHA(Ms Sangeeta Goirala, Joint Secretary)

PMO U.O.No.G.16(4)/2000-NGO dated 21.11.2000.

प्र.सं.का. (एन.बी.ओ.)/PMO (NGO)
जारी/Issued.....
दिनांक/Date..... 21/11/2000

S.No. 36 (I)

135

MOST IMMEDIATE

PRIME MINISTER'S OFFICE

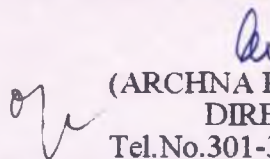
SOUTH BLOCK
NEW DELHI-110011.

Subject:- Justice Mukherjee Commission of Inquiry to enquire into
alleged disappearance of Netaji Subhash Chandra Bose -
Declassification of records.

National Museum may please refer to their No.F.DGNM-2/2000 dated
2.11.2000 addressed by Dr.R.D.Choudhury, Director General, to Ms Sangita
Gairola, Joint Secretary, MHA, and a copy endorsed to this Office, on the above
subject.

2. The matter has already been delayed considerably by the Museum. As a
result of this delay, we have been forced to seek 15 days' time from the
Commission to file our reply and this extension would also be over by 30th
November, 2000. Any further delay may invite adverse comments from the
Commission/ press/ individuals.

3. It is once again requested that the comments/views of the National
Museum regarding declassification of papers, a copy of which has already
been forwarded to the Museum, may please be sent, atonce.


(ARCHNA RANJAN)
DIRECTOR
Tel.No.301-3931

DR. R.D.Choudhury, Director General, National Museum, Janpath, New Delhi.

P.M.O.U.O.No.G.16(4)/2000-NGO dated 21.11.2000.

प्र.मं.का. (एन.जी.ओ.)/PMO (NGO)

जारी/Issued.....

दिनांक/Date..... 21.11.2000.....

136

**Before the Hon'ble Justice Mukherjee Commission
of Inquiry at Calcutta.**

**IN THE MATTER OF COMPLIANCE WITH THE ORDERS/
DIRECTIONS OF THE COMMISSION WITH REGARD TO THE
PRODUCTION OF THE FILES/DOCUMENTS AS MENTIONED IN
THE MINISTRY OF HOME AFFAIRS AFFIDAVIT FILED BY SHRI
A.K. PAITANDY, DIRECTOR(IS-I) ON 20.6.2000.**

AFFIDAVIT

I, Kamal Pande s/o late Dr. Purushottam Pande, Secretary to the Government of India in the Ministry of Home Affairs, do hereby solemnly affirm and state as follows:-

1. The Hon'ble Commission, during its hearings held on 31.8.2000 has inter-alia ordered the Ministry of Home Affairs to produce before the Commission the following files pertaining to Netaji Subhas Chandra Bose:-

- i) Bringing the ashes of Netaji kept in Renkoji Temple in Tokyo in Japan to India; and
- ii) Posthumous announcement of award of 'Bharat Ratna' to Netaji.

2. I, as the Secretary to the Government of India, in the Ministry of Home Affairs, am the Head of the Department and I am as such in control of and in charge of its records. I am filing the present affidavit in my capacity as the Head of the Department.

P.T.O

3. I am filing the present affidavit claiming privilege, under Section 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, in respect of the records as mentioned in para-1 above. I am claiming privilege in the following circumstances:

4. The records as mentioned above which have been ordered to be produced by the Hon'ble Commission are unpublished official records relating to affairs of State and contain communications made to public officers in official confidence. The disclosure of the records would cause injury to the public interest. As such, they are protected by Section 123 and 124 of the Evidence Act. The disclosure of the records would also be violative of the mandatory provisions of Article 74(2) of the Constitution inasmuch as the records contain advice tendered by the Ministers to the President.

5. I submit that the records ordered to be produced also belong to a class of documents which it is the practice to keep secret for ensuring the proper functioning of the public service.

6. I have carefully examined the question as to whether the disclosure of the records would cause injury to public interest, including India's relations with some friendly foreign countries and am bona-fide satisfied that their disclosure would cause injury to public interest, and that public interest would suffer thereby.

7. In the circumstances, I withhold permission to produce the said records or to disclose their contents or to give any evidence derived

P.T.O.

therefrom, and claim privilege under Section 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, in respect of the aforesaid files.

8. However, I submit that I have no objection to the records in respect of which privilege has been claimed being produced for perusal by the Hon'ble Commission for satisfying itself about the bona-fides and genuineness of the plea of privilege.

**(KAMAL PANDE)
DEPONENT**

VERIFICATION

I, Kamal Pande, s/o late Dr. Purushottam Pande, declare and affirm that what is stated above is true to my knowledge. No part of this Affidavit is false and nothing material has been concealed.

Verified at New Delhi on 13th November, 2000.

**(KAMAL PANDE)
DEPONENT**

P.T.O.

SNb 42

139

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Calcutta 700 087

Phone:

Chairman - 216-2835
Secretary - 216-2767
Officer on
Special Duty - 216-2765
Office - 216-2766/68

REGISTERED WITH A/D.

No. JMCI/Meeting-Proceedings(Follow-up)/48(Vo.II)/289(5)

Dated the 10th October 2000

From :

Shri P.K. Sengupta, WBHJS (Retd.)
Secretary

To

The Secretary
Prime Minister's Secretariat,
South Block,
New Delhi 110 001

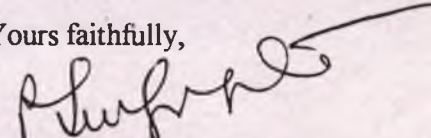
Subject Strict compliance with the orders/directions contained in the proceedings dated 28.09.2000 read with the proceedings dated 23.03.2000, 13.06.2000 and 31.08.2000 of Justice Mukherjee Commission of Inquiry.

Sir,

I am sending herewith a copy of the proceedings dated 28.09.2000 of the Commission containing its orders and directions for your perusal and compliance thereof as directed by the Commission.

Copies of the proceedings dated 23.03.2000, 13.06.2000 and 31.08.2000 of the Commission were sent to your office earlier.

Yours faithfully,


(P.K. Sengupta)
Secretary

Encl: As stated above.

3104/JS(S)/00
SECY. TO P.M. 17/10
DY. No. 2412-67
D.F.B. 16/10/00

nk6
16.10
JS(A) - on loan

73(72)

Please discuss with me portion marked 'x' on page 3, today. Did we file this affidavit.

Discussed with
Dir(A) & US(Pol.)

Fax : 0091-033-216-2765

e-mail : jmcinscb@cal3.vsnl.net.in

Discussed with JS(S). May wait till 23/10/2000 JS(S)
12/10 H.S./Adm.

140

Proceedings dated 28.09.2000 (Fourth)
Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

September 28, 2000

At the commencement of the hearing it is found that no witness on behalf of the Government of India is present even though in the earlier order dated August 31, 2000 they were asked to produce their witnesses, if any, on the next date of hearing, i.e. today, for their examination before examination of other witnesses. Since, neither any officer of the Government of India nor any Counsel on their behalf is present nor has any communication been received to explain their stand in this regard, the Commission is left with no other alternative but to presume that the Government of India do not intend to examine any witness. With this presumption, the Commission proceeds to examine the two witnesses present.

2. Examination of Witnesses

- (a) Sri Nilanjan Bose and Sri Ardhendu Sarkar are examined on oath and cross-examined as witness Nos. 4 and 5 respectively. Xerox copies of a report in Bartaman, a Bengali daily dated March 21, 1999 and of a news item in the Sunday Statesman dated January 22, 1989 are marked as 'Y' and 'Y(1)' for identification, on admission by the witness Nos. 4 and 5 respectively.
- (b) Of the other three witnesses summoned to depose today -
- (i) Dr. Sisir Kumar Bose sent a letter to the Secretary to the Commission on September 22, 2000 stating, inter-alia, as follows :
- "Since the end of World War II in August 1945 till to day I have not received any direct information from him (Netaji) or about him. I have no personal knowledge as to the issues referred to the Commission. I am therefore not competent to depose in this matter.";
- (ii) Sri Anindya Sengupta also sent a letter intimating that he was indisposed and as such is unable to be present to-day but has made a request to fix another date for his examination; and

(iii) Shri Suman Chattopadhyaya has not appeared nor sent any communication explaining his failure to appear, even though summons were duly served at his office address by registered post.

(c) Since from the contents of the letters of Dr. Sisir Kumar Bose it appears that no useful purpose will be served by examining him he need not be re-summoned. Let fresh summons be served upon Shri Anindya Sengupta and Shri Suman Chattopadhyaya for their examination before this Commission on the next date of hearing intimating them that if they fail to appear this time as well without any justifiable reason, appropriate legal action may be taken against them for their such failure.

(d) The following persons be also summoned to testify before the Commission on the next date of hearing :

- i) Shri Barun Sengupta, Editor, "Bartaman",
- ii) Shri Pabitra Kumar Ghosh, Journalist, "Bartaman",
- iii) Dr. Purabi Roy, 47C Abdul Halim Lane, Calcutta 700 016,
- iv) Shri Jayanta Roy, Hemanta Basu Bhawan, 49C,
Chittaranjan Avenue, Calcutta 700 012,
and
- v) Smt. Prabha Jagannathan, Correspondent, Formerly of The
Telegraph and now of the Economic Times, 105/7A, S.N.
Banerjee Road, Calcutta 700 013

3. Further orders/directions

On conclusion of the examination of the witnesses, the parties/their representatives who are present have been heard on the status report prepared on September 26, 2000 and circulated amongst them before

commencement of the hearing today. After such hearing and perusing all the materials received from the Central Government and the State Government since the last date of hearing, the Commission makes the following further orders/directions :-

05/10
✓
F/A

41

a) Even though in paragraph E of the order dated August 31, 2000 there was an express direction that all informations to be furnished in terms thereof must be supported by affidavit of a competent officer not below the rank of a Joint Secretary to the Government of India, the Prime Minister's office has sent an affidavit sworn by an Under Secretary of that office in purported compliance of paragraph A of the said order. The Commission therefore does not take any notice of the contents thereof; and calls upon the said office once more to strictly comply with the orders/directions issued on August 31, 2000.

- b) (i) In compliance of paragraph B(i) of the order dated August 31, 2000, some papers reportedly relating to the Khosla Commission have been sent by the Ministry of Home Affairs and received by the office of the Commission without verifying the contents thereof. In expectation that some representative of the Ministry will be present today to identify those documents and prove their authenticity, the same have been brought to the venue of the Commission's hearing. But, as already mentioned, no one is there to represent the Government of India and for that matter the Ministry concerned.
- (ii) A communication has been received from the Ministry seeking time till November 15, 2000 to produce the papers referred to in paragraph B(ii). The prayer is allowed.
- (iii) Under orders of the Commission, a letter was sent by its Secretary on August 25, 2000 to produce the following documents :

(a)(a) A xerox copy of the letter said to be sent by General Chiang-kai-Sheikh to Pandit Jawaharlal Nehru about an inquiry reportedly made by the Government of Nationalist China at Taipei regarding the alleged plane-crash involving Netaji along with a xerox copy of the said Inquiry Report; and

(b)(b) A xerox copy of the report dated 31st December, 1945 of Shri B.C. Chakravarty (Witness No.168 before Justice Khosla Commission of Inquiry) on alleged air-crash and alleged death of Netaji Subhas Chandra Bose which was counter-signed by Col. Stevenson and sent to the CSDIC as referred to in the published report of the Commission;

but those documents have not yet been produced.

- c) None of the directions contained in para C(i) and (ii) of the abovequoted order has been complied with except that a letter has been received from the Ministry of External Affairs to-day (when the Commission was holding its sitting) wherein it is stated that they are preparing photocopies of the nine top-secret files referred to in paragraph C(ii) of the order dated August 31, 2000.
- d) Shri Aloknath Bhattacharyya, Special Secretary, Home (Political) Department who is present today has produced some Index Books but no affidavit has been filed in terms of para 'E' of the order dated August 31, 2000. Let the Index Books be kept with the office of the Commission and be not returned without leave of the Commission. The prayer of Shri Bhattacharya for time to file affidavit is allowed.
- e) It is rather unfortunate that even though as far back as on March 23, 2000, the Commission passed comprehensive orders and directions regarding sending of files and documents to this Commission by the related Ministries/Departments/Offices, the same have not yet been

144

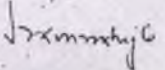
fully complied with. In this connection, the attention of the above authorities is drawn to the following portion of the order dated June 13, 2000 :-

"It is made abundantly clear that in case of failure to comply with the same by the aforesaid date, the Commission may be reluctantly compelled to invoke the provisions of Section 5(4) of the Commission of Inquiry Act, 1952 against the recalcitrant officers of the Government, both Central and State. It is also made clear that since the orders/directions passed in the proceedings by the Commission are in exercise of statutory – and not administrative – powers, no correspondence will henceforth be entertained relating to the compliance thereof. However, in respect of any matter relating to the compliance with the directions/orders of the Commission, the concerned Government may approach the Commission by making formal applications supported by affidavits before the Commission through competent officers, not below the rank of Joint Secretary to the Government of India."

- f) The above orders/directions must be complied with by November 15, 2000.

4. NEXT HEARING.

The next hearing of the Commission will be held on November 23, 2000 at 11 A.M. in the Seminar Hall, Annexe Building, Mahajati Sadan, 166 Chittaranjan Avenue, Calcutta 700 007.


(M.K. Mukherjee)
Chairman.



TOP SECRET

राष्ट्रीय संग्रहालय
NATIONAL MUSEUM

Dr.R.D.Choudhury
Director General

No.F.DGNM-2/2000

Phone: 3018159

November 22, 2000

Dear Mr. Prasad,

This refers to my Secret D.O. letter of even number dated November 15, 2000 regarding declassification of records in connection with the inquiry into alleged disappearance of Netaji Subhash Chandra Bose which is being inquired into by Justice Mukherjee Commission.

Today Morning I received a telephone call from the PMO requesting to expedite the matter at the earliest enabling them to file an affidavit in the matter. Thereafter, I received a letter from the Director(PMO) in this regard (copy enclosed). I, then contacted Mr.D.B. Bhati, Section Officer (NGO) in your Department who advised to send a copy of the documents immediately for declassification.

Accordingly I am enclosing a copy of two pages documents for your kind perusal for declassification. You are requested kindly to convey necessary decision for declassification of these papers so that the PMO could be informed at the earliest.

With regards,

Yours sincerely,

Encls: As above-3 Nos.

(R.D.Choudhury)

Shri Jayant Prasad
Joint Secretary
Ministry of External Affairs
NGO, South Block
New Delhi

Copy for information to:

1. Mrs. Archana Ranjan, Director, Prime Minister Office, South Block, New Delhi with reference to her letter No.PMO U.O.No.G.16(4)/2000-NGO dated 21.11.2000 .
2. Shri S.Satyamoorthy, Joint Secretary, Department of Culture, Shastri Bhawan, New Delhi.
3. Mr.D.B.Bhati, Section Officer(NGO), Ministry of External Affairs, Room No.132A, South Block, New Delhi.

(R.D.Choudhury)

85/DIR(CA) TS/00

ब.म.का. (एन.जे.जे.)/PMO (NGO)

न.नं./Dy. No. 508/TS/2000

दिनांक/Date... 22.11.2000



राष्ट्रीय संग्रहालय
NATIONAL MUSEUM

SECRET

Dr.R.D.Choudhury
Director General

D.O.No.F.DGNM-2/2000

Phone: 3018159

Novemaber 27, 2000

Dear Ms. Ahmed,

Please refer to your D.O.No.F.13-38/2000/M.1 dated October 3, 2000 regarding declassification of records in connection with the inquiry into alleged disappearance of Netaji Subhash Chandra Bose which is being inquired into by Justice Mukherjee Commission.

In this context I approached Ms. Sangita Gairola, Joint Secretary, Ministry of Home Affairs who informed that "under the Departmental Security Instructions the Department, from where the concerned classified document/material has originated, shall be competent to revise the classification/grading of the same" (copy enclosed).

Accordingly I contacted Shri Jayant Prasad, Joint Secretary(CNV), Ministry of External Affairs who informed that they have no objection if the Treasures of Netaji sent by the Ministry to the National Museum are shown to the Justice Mukherjee Commission of inquiry (copy enclosed).

Meanwhile I received a telephone call from the PMO House requesting to expedite the matter enabling them to file an affidavit in the matter.

In view of the above, you are requested kindly to convey necessary approval for declassification of the enclosed papers at Flag 'A' so that the PMO could be informed at the earliest.

This may be treated as most urgent.

With regards,

Yours sincerely,

R.D. Choudhury
(R.D.Choudhury)

Encl: As above

Ms.Humera Ahmed
Director
Department of Culture
Shastri Bhawan
New Delhi

Copy to:

Mrs Archana Ranjan, Director, Prime Minister Office, New Delhi.

R.D. Choudhury
(R.D.Choudhury)

जनपथ, नई दिल्ली-110011; तार: संग्रहालय; दूरभाष: 3019272, 3019322; फैक्स: 3019821 ई-मेल: rdchoudh@ndf.VSNL.net.in
Janpath, New Delhi-110011; Gram: MUSEUM; Tel: 3019272, 3019322; Fax: 3019821; E-mail: rdchoudh@ndf.VSNL.net.in

3011DIR(A)/S
27/11/00

व.सं.का. (एन.बी.ओ.)/PMO (NCC)
क्र.सं./Dy. No. 884/5/2000
दिनांक/Date 28-11-2000
27/11/00

Null

F.No. 152/LC/2000 /9059
Government of India
Ministry of Law, Justice & Co. Affairs
Department of Legal Affairs
Branch Secretariat
Calcutta

Speed Post

147

To,

Dated, the 23 Nov. 2000

1) The Director,
Prime Minister's Office,
South Block,
New Delhi-110001.

2) The Joint Secretary (ISI),
Ministry of Home affairs,
Govt. of India, North Block,
New Delhi.

Sub:- Justice Mukherjee Commission of Inquiry
appointed to enquire into alleged
disappearance of Netaji Subash Chandra
Bose -regarding.

Sir/ Madam,

I am to inform you that Shri Tarakesuar Pal, Sr.
Counsel alongwith Sri Animesh Mazumdar, Junior Counsel have
been engaged to appear before Justice Mukherjee Commission
at Calcutta on behalf of Union of India and other Central
Government Departments. You are requested to contact both
the Government Counsel engaged in the matter and necessary
instructions may be given to them directly to enable proper
conduct of the departmental case before Hon'ble Justice
Mukherjee Commission of enquiry.

The addresses and Tel.Nos. of both the counsel
appointed in the aforesaid matter are furnished hereunder:-

1) Shri Tarakesuar Pal. Advocate

Chamber

Residence

Room No.:-5, Bar Association,
High Court, Calcutta.
Phone No. 248-3190/3169
FAX :(033)248-2313
E-mail : barasohc@cal.cmc.net.in

Purnasasi, 33, Asoke Avenue
(Off: 2 Opposite Navanir)
Calcutta- 700040.
Phone No. 471-0592

Contd...2/-

ब.सं.का. (एन.जी.ओ.)/PMO (NCO)
का सं/Dy. No. 228/11/2000
दिनांक/Date..... 28/11/2000
3015101R (A) 4
3750/Dir R/1/4/2001
27/11

148

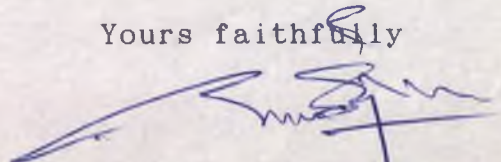
-2-

2) Shri Animesh Mazumdar, Advocate

<u>Chamber</u>	<u>Residence</u>
Room No:- 12 Bar Association High Court, Calcutta-1.	12/1 Ghoses Lane(N) P.O.-Belumath Dist- Howrah, (WB)

Thanking you.

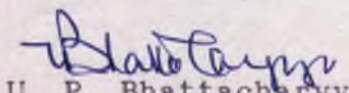
Yours faithfully



(S. K. Mohapatra)
Dy. Legal Adviser

Copy to :-

- 1) Shri Tarakesuar Pal, Advocate Room No.:-5, Bar Association, High Court, Calcutta -for information .
- 2) Shri Animesh Mazumdar, Advocate, Room No:- 12
Bar Association High Court, Calcutta-1 - for information.



(U. P. Bhattacharyya)
SUPDT. (LEGAL)

149

FAX MESSAGE
MOST IMMEDIATE

No.G.16(4)/2000-NGO

PRIME MINISTER'S OFFICE

SOUTH BLOCK

NEW DELHI-110011

Dated:28.11.2000.

To

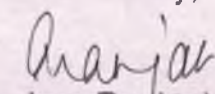
Shri Tarakesuar Pal, Advocate
Sr. Counsel,
Room No.5, Bar Association,
High Court, Calcutta.

Subject: Justice Mukherjee Commission of Inquiry appointed to enquire
into alleged disappearance of Netaji Subhash Chandra Bose-
regarding.

Sir,

I am directed to refer to Ministry of Law, Justice & Co. Affairs,
Department of Legal Affairs, Branch Secretariat, Calcutta letter
No.152/IC/2000/9059 dated 23.11.2000, informing this Office regarding
your engagement, alongwith Shri Animesh Mazumdar, Junior Counsel, to
appear before Justice Mukherjee Commission at Calcutta, on behalf of
this Office, and to send herewith draft of the Affidavit which is proposed
to be filed before the Commission by 30th November, 2000. It is
requested that the same may please be vetted, and changes, if any, in
the draft Affidavit, intimated to the undersigned, atonce.

Yours faithfully,


s/c (Archana Ranjan)
Director

Phone No.301-3931

PMO(South Block) FAX No.011- 301-6857/301-9545



Dr.R.D.Choudhury
 Director General

D.O.No.F.DGNM-2/2000

Phone: 3018159

November 28, 2000

Dear Ms. Ahmed,

In continuation of my letter of even number dated 27th November, 2000 regarding declassification of records in connection with papers to be shown to the Justice Mukherjee Commission, I am enclosing a copy of the letter received just now from Shri Jayant Prasad, Joint Secretary(CNV), Ministry of External Affairs wherein he mentioned that "the papers are apparently the extracts of the accession register of the National Museum itself, your organisation may, therefore, like to take the view on their declassification".

In view of the above, you are, therefore, requested kindly to convey necessary approval for declassification of the papers already enclosed alongwith the aforesaid letter at Flag 'A' so that the PMO could be informed at the earliest.

This may be treated as most urgent.

With regards,

Yours sincerely,

(R.D.Choudhury)

Encl: As above

Ms. Humera Ahmed
 Director
 Department of Culture
 Shastri Bhawan
 New Delhi

Copy to:

Mrs Archana Ranjan, Director, Prime Minister Office, South Block, New Delhi.

(R.D.Choudhury)

29/11/00 15:32

091332487589

OFFICE SERVICES

0001



Fax: 011-301-9545
(to) 011-301-6857

Tarakeswar pal, Advocate
Sr. Counsel, HIGH COURT CALCUTTA
J.M. Commission Bar Association Room No. 5
Phones: 248-3190/3169
Fax: (033) 248-2313
E-mail: tarakeswar@cal.cmc.net.in
Residence
November 29, 2000

To
Smt. Archana Ranjan, Director,
Prime Minister's Office,
Sector Block, New Delhi-110011.

Dear Madam,

Re: Justice Mukherjee Commission of Inquiry
And

Your letter dated 28-11-2000 under
No.G(15(4))/2000-MGC received by Fax on 28-11-2000.

And
Draft Affidavit by Sri Jarnail Singh,
Joint Secretary, R.P.M.C.

1. To apprise the matter in urgency, let me remind you that the Affidavit of P.M.C. required as under :-

a) As per Order containing in Para A(i) of Proceeding dated 31st August, 2000, the reasons of privilege as to disclosure of the contents of the files mentioned in letter No. G-15(4)/2000-MGC dated July 29, 2000, should be mentioned.

b) As per Order in Para A(ii) of proceeding dated 31st August, 2000 the particulars of destroyed files/papers to be mentioned.

c) As per para A(iii) of the said Order dated 31-8-2000 the availability of the files/documents mentioned in para a(i) of proceeding dated March 23, 2000 in P.M.C. should be stated.

d) As per Para A(iii) of the said proceeding/Order dated 31-8-2000 Affidavits of Competent Persons (not below ~~the~~ rank of Joint Secretary) of Ministries of the Govt. of India to be filed giving lists of all other files records/documents (whether secret, top secret or anything) in respective Ministries (except 990 files with the National Archives) as per Para (b) of the proceeding dated 23rd March, 2000.

2. In view of above, as to 1(a) above, Paras 4, 5, 7 and 8 of Draft Affidavit be rewritten including the following :

That the contents of the said Files/Papers have no bearing with the present reference/issue of the Hon'ble Commission.

3. Include a Para as to 1(b) above.
4. Include a Para as to 1(c) above.
5. Include a para giving results on other files/records etc. (other than ordered by the Hon'ble Commission) as to 1(d) above.
6. Other paragraphs of the draft Affidavit be retained. (The draft you have sent is incomplete - after para 9 there is nothing. Annexure referred to in Affidavit is not with the copy).

with thanks,

Tarakeswar Pal
(Tarakeswar Pal)
Advocate,
Sr. Counsel.

AS Fax machine disturbed
- info delayed.

TRANSMISSION

DATE, TIME
FAX NO. / NAME
DURATION
PAGE(S)
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VERIFICATION REPORT

TIME : 29/11/2000 16:18
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FAX :
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STANDARD

152

MOST IMMEDIATE

No.G.16(4)/2000-NGO

PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011

DATED:29.11.2000

To

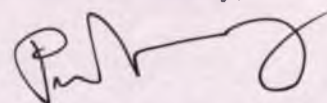
The Home Secretary,
Government of West Bengal
Sachivalaya, Writers' Building,
CALCUTTA.

Subject:Justice Mukherjee Commission of Inquiry appointed to enquire
into the alleged disappearance of Netaji Subhash Chandra Bose-
Deputation of an officer to Calcutta in connection with-

Sir,

I am directed to say that Shri P.S. Lally, Under Secretary in this Office has been deputed to go to Calcutta in connection with filling of an Affidavit before the Commission. He is going to Calcutta today (29.11.2000) by IC : 264 reaching Calcutta Airport at 2055 hrs. You are requested to please issue suitable instructions for his reception at the Airport and for transport/accommodation during his stay at Calcutta.

Yours faithfully,



(P.K. Roy)
Under Secretary
Tel.No.3018130

(153)



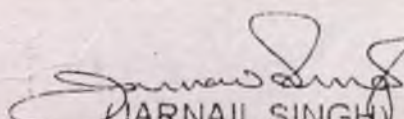
प्रधान मंत्री कार्यालय
नई दिल्ली 110 011
PRIME MINISTER'S OFFICE
New Delhi 110 011

No.G.16(4)/2000-NGO

dated: November 27, 2000

Subject: Proceedings before the Hon'ble Mr. Justice Mukherjee Commission of Inquiry appointed to enquire into alleged disappearance of Netaji Subhash Chandra Bose.

This is to inform you that we have no witness to examine on our behalf before the Commission, at this stage. If such an occasion arises later, we shall place the same forthwith before the Commission.


(JARNAIL SINGH)
JOINT SECRETARY

Shri Tarkeshwar Pal,
Advocate & Senior Counsel for the Govt. of India,
Before the Hon'ble Mr. Justice Mukherjee Commission

BEFORE THE HONOURABLE JUSTICE MUKHERJEE
COMMISSION OF INQUIRY AT CALCUTTA

IN THE MATTER OF COMPLIANCE WITH THE ORDERS/
DIRECTIONS OF THE COMMISSION AS PASSED IN THE
PROCEEDINGS HELD ON 31.8.2000 and 28.9.2000 AT
CALCUTTA.

AFFIDAVIT

I, Jarnail Singh son of Late Shri Dalip Singh, working as Joint Secretary in the Prime Minister's Office, do solemnly affirm and state as under -

1) That in so far as documents Notes which originated from the PM's Office on the files already forwarded to the Commission are concerned, these may be treated as downgraded to confidential subject to the final decision on documents mentioned in para 2 of this Affidavit, and the documents listed in Annexure-I to this Affidavit and Notes portions of this office listed in Annexure-IA. However, it is left to the discretion of the Commission to make all any of these declassified documents, public.

2) That so far as the classified letters references which originated from the other Ministries/Departments, like the National Museum, the Ministry of External Affairs, Ministry of Home Affairs, Ministry of Defence, Ministry of Urban Development, Department of Economic Affairs, Ministry of Information & Broadcasting, Department of Food & Public Distribution, Cabinet Secretariat, Intelligence Bureau and Governments of West Bengal and Orissa, are concerned, since the declassification of these references letters can only be done, as per the extant instructions, with the concurrence of the concerned Ministries Departments State Governments, reference was made to the concerned Ministries Departments State Governments, on 14-15th September, 2000 to let this Office have their views regarding the declassification of the letters references for apprising the Commission about the justification or otherwise of declassification of classified records for use by the Commission. So far, while the Ministries of Defence, Urban Development, Information & Broadcasting, Dept. of Food & Public Distribution, Intelligence Bureau and the Govt. of West Bengal have conveyed that they have no objection to the declassification of the

.....2



Jarnail Singh
29/11/2000

-2-

references pertaining to them, the Ministry of External Affairs have conveyed that their references may be treated as downgraded to confidential and that they leave it to the discretion of the Commission to decide whether to make them public or not. The matter is being pursued with the Department of Economic Affairs, National Museum and Govt. of Orissa to convey their stand to the declassification of documents pertaining to them early. Our stand, would thereafter be formulated and conveyed to the Commission with regard to such documents notes on our files.

3) With regard to the documents which originated from the Ministry of Home Affairs, that Ministry is of the view that the documents listed in Annexure-I dealing with the following issues may be continued to be treated as classified:

- a) Controversies regarding Netaji's death and bringing his ashes to India from Japan;
- b) Identity of Mrs. Anita Prall, daughter of Netaji Subhash Chandra Bose.

Consequently the notes portion dealing with these classified documents available on PMO files would also continue to be treated as classified (Annexure I-A). In view of the advice of Ministry of Home Affairs, I, the Deponent as Joint Secretary in Prime Minister's Office dealing with the subject matter, am in control of these records and am filing the present Affidavit accordingly. I am filing the present affidavit claiming privilege, under sections 123 & 124 of the Evidence Act, in respect of the records as mentioned in Annexures I & IA to this Affidavit. I am claiming privilege in the following circumstance :-

4) The records listed in Annexure I & IA which have been ordered to be produced by the Hon'ble Commission are unpublished official record relating to affairs of State and contain communications made to public officers in official confidence. The disclosure of the records would cause injury to the public interest. As such, they are protected by Section 123 and 124 of the Evidence Act.



.....3-
[Signature]
29/11/2000

-3-

5. I submit that the records ordered to be produced also belong to a class of documents which it is the practice to keep secret for ensuring the proper functioning of the public service.

6. I have carefully examined the question as to whether the disclosure of the records would cause injury to public interest, including India's relations with some friendly foreign countries and am bona-fide satisfied that their disclosure would cause injury to public interest, and that public interest would suffer thereby.

7. In the circumstances, I, with the approval of the Head of the Department, withhold permission to produce the said records or to disclose their contents or to give any evidence derived therefrom, and claim privilege under Section 123 and 124 of the Evidence Act, in respect of the aforesaid papers. (listed in Annexures I & IA).

8. However, I submit that I have no objection to the records in respect of which privilege has been claimed being produced for perusal by the Hon'ble Commission for satisfying itself about the bona-fides and genuineness of the pleas of privilege.

9. In so far as documents (1) Cabinet Sec't's. meeting notice No. 6, CM 95(ii) dated 6.2.1995 and (2) Record Note of discussion after Cabinet meeting held on 20.7.1994 are concerned, Ministry of Home Affairs have already filed an Affidavit dated 13.11.2000 before the Commission claiming privilege under Sections 123 and 124 of the Evidence Act.

10. That with regard to file No. 12(226)/56-PM which contained Agenda Paper Cabinet decision regarding "Investigation into the circumstances leading to the death of Shri Subhash Chandra Bose", it may be mentioned that as per the record in this Office, it was destroyed in 1972 in the course of routine review weeding out of old records which was done as per extant instructions. Photocopies of two notes relating the destruction of the file are at Annexure-II & IIA, respectively. It is further certified that no copy of the file was retained in this Office at the time of its destruction.



Signature 29/11/2020

-4-

11. That certain documents of file No.23(156)/51-PM required by the Commission were destroyed while recording that file in 1969. The list of papers destroyed are already available in that file. No copy of the documents destroyed was retained in this Office.

12. That file No.2(381)60-66-PM opened in 1960, dealing with the proposal to bring Shri Subash Chandra Bose's ashes from Tokyo and to put up a memorial to him in front of the Red Fort in Delhi, is not traceable. Renewed efforts made to trace the same have not borne fruit.

13. That file No.2(64)66-70-PM Vol.VI regarding death of Netaji Subash Chandra Bose - Appointment of an Enquiry Committee to go into circumstances of Death, is also not traceable in this Office. Renewed efforts made to locate the file have not been successful.

14. That with regard to Sr. No.5 of File No.G.12(3)98,NGO and Sl.No.127A of file No.2(64)56-66-PM Vol.II, it may be stated that although the letters have been marked as Confidential and Secret, respectively, these may be treated as declassified since these two letters had originated from private individual party, and it is not possible at this stage, to get in touch with them to get their concurrence for declassification of these letters. This Office has no objection to the disclosure of the contents of these two letters also by the Commission.

15. That to the best of my knowledge, there are no other files with this Office, other than already sent to the Commission or mentioned above, relevant to the terms of the Commission.

Jarnail Singh
Deponent 29/11/2000

Verification

I, Jarnail Singh, declare and affirm that what is stated above is true to my knowledge. No part of this Affidavit is false and nothing material has been concealed.

Verified at New Delhi on 29th November 2000.

I identify the deponent who has signed/put T.I. in my presence.

Prakash
PA, Home Minister's office
South Block
New Delhi

965/97
K. K. KAUL
Advocate/Notary
Parliament Street Court
New Delhi

ATTESTED
[Signature]
NOTARY PUBLIC
DELHI

29 NOV 2000

ANNEXURE -I

✓ 1. File No. G-16(3) 95-NGO

Sl. No. 17 pages 20-21 c of the file No. G-16(3) 95-NGO-MHA's D.O. No. 1/12014/27/93-ISD.III dated Nil from Sh. S.B. Chavan, Home Minister to Sh. P.V. Narasimha Rao, Prime Minister regarding mortal remains of Netaji Subhash Chandra Bose to be brought from Tokyo to India.

✓ 2. File No. G-12(18) 94-NGO

Sl. No. 36 pages 4-5 c of the file No. G12(18) 94-NGO -MHA's U.O. No. 1/12014 27/93-IS(D.III) dated 9.8.94. from Sh. K. Padmanabhaiah, Home Secretary to Sh. A.N. Varma, Principal Secretary to PM on controversy regarding Netaji's death and bringing his ashes to India from Japan.

✓ 3. File No. 870 11 P 10/93-Pol Vol.II

Sl. No. 1 c Page 1 c of the file- No. 870/11 P 10/93-Pol Vol.II- MHA's U.O. No. 1/12014/27/93-IS.D.III dated 20.4.1994 from Sh. N.N. Vohra, Home Secretary to Sh. A.N. Varma, Principal Secretary to PM - Controversy regarding Netaji's death and bringing his ashes to India from Japan.

✓ 4. File No. 2(67) 78-PM

Sl. No. 3 C Page 4-6 c of the file No. 2(67) 78-PM MHA U.O. No. 25022/109 79-F.VII dated 6.2.1980 (with enclosures) from Shri Vinay Vasishtha, Under Secretary, Ministry of Home Affairs to Sh. Prakash Shah, Joint Secretary, PMO regarding establishment of the identity of Ms. Anita Pfaff daughter of Netaji Subhash Chandra Bose.



Ganesh Singh 29/11/2020

ANNEXURE -IA.

1. File No. G-16(3)/95-NGO Page Nos. 5&6 of Note dated 21.11.1995 of Ms. Sujata Mehta, Director, PMO & notings thereon regarding proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India.
2. File No. G-12(18)/94-NGO Page Nos 1 to 4 (Notes portion) of Notes dated 26.8.1994 & 2.9.1994 of Ms. Sujata Mehta, Director, PMO and notings thereon about controversy regarding Netaji's death and bringing his ashes to India from Japan.
- ✓ 3. File No. 2(67)/78-PM Page Nos. 2 to 3 of Notes portion regarding doubts about the facts relating to wife and daughter of Netaji Subhash Chandra Bose.
- ✓ 4. File No. 870/11/P/10/93-Pol.Vol.II Page Nos. 2 to 3 of Notes portion relating to controversy regarding Netaji's death and bringing his ashes to India from Japan.



Jamaal Singh

29/11/2000

ANNEXURE II

<u>File No.</u>	<u>Subject.</u>	<u>Date of recording.</u>
12(204)/56-PM	Ratification of the Treaty of Cession of the French Establishments of Pondicherry, Karikal, Mahe and Yanam.	12.4.1957.
12(205)/56-PM	National Film Board and Film Finance Corporation - Establishment of.	-do-
12(206)/56-PM	Construction of a Hotel in the Diplomatic Enclave by Ashoka Hotels Ltd.	Cancelled over to 1957 -do-
12(209)/56-PM Vols. I & II.	Industrial Relations Bill, 1954.	-do-
12(210)/56-PM	National Book Trust - Establishment of an Autonomous.	-do-
12(211)/56-PM	Construction of a Central Conference Hall in New Delhi.	-do-
12(212)/56-PM	Law relating to Copyright Legislation for amending and consolidating the -	-do-
12(215)/56-PM	Indian Citizenship Bill.	-do-
12(219)/56-PM	Monetary Reward to the workers of Sindhri Fertilizer Factory.	-do-
12(223)/56-PM	Coal Miners - New Housing Scheme for-	-do-
12(225)/56-PM	Indian Delegation to H.R.H. the Duke of Edinburgh's Conference on the social responsibility of Industry.	-do-
12(226)/56-PM	Investigation into the circumstances leading to the death of Shri Subhash Chander Bose.	-do-
12(229)/56-PM	Loan of Rs. 1.45 crores granted by the U.P. Govt. to M/S Sahu Jain Ltd. for a Soda Ash and Ammonium Chloride factory in U.P. - objection raised by the Central Govt. about the grant of -	-do-
12(230)/56-PM	Continuance of grants in-aid granted under article 278 of the Constitution to the Part 'B' states after the re-organisation of States.	-do-
12(231)/56-PM	Provision for arbitration in disputes arising out of contracts placed by the Directorate General of Supplies and Disposals for purchase of stores.	-do-

29/11/2023

ANNEXURE II 2

There is a file on the subject in the Political Section.

22/11/2010

22/11

3/11/10
Pm

The only files available in this section on the subject are placed below. There was another file bearing No. 12/226/56, Pm with the subject "Investigation into the circumstances leading to the death of 'Shri Sukhar Chandra Bae'" but this was destroyed on 6-3-72 during the process of weeding.

SSA

Vol. I & II only of the file which contains papers pertaining to the subject.



Jayant Singh
29/11/2010

(162)

No. 915/11/C/2/2000-Pol (Vol.1)

PRIME MINISTER'S OFFICE

SOUTH BLOCK

NEW DELHI - 110011

Dated : 29.11.2000

To

✓ Shri P. K. Sengupta, WBHJS (Retd.)

Secretary,

Justice Mukherjee Commission of Inquiry,

'B' Block/Third Floor,

11A, Mirza Ghalib Street,

Calcutta - 700087.

Subject : Compliance with the Orders/

Directions contained in the
Proceedings dated 28.9.2000 read
with the Proceedings dated
23.03.2000, 13.06.2000 and
31.08.2000 of Justice Mukherjee
Commission of Inquiry.

Sir,

I am directed to refer to this Office letter of even
number dated 14.11.2000, praying for grant of 15 days, to enable
this Office to file its Affidavit before the Commission, and to
forward herewith the Affidavit, duly signed by Shri Jarnail Singh
Joint Secretary, ^{and} ~~only~~ verified by the Notary, for record/perusal
of the Commission.

Yours faithfully,

[Signature]
(P. S. LALLY)
Under Secretary.

Copy to Govt. Counsel at Calcutta.

[Signature]
30/11/2000

✓ Received an
affidavit with a
forwarding letter from
P.H.D.'s office.
Chatterjee
30/11/2000

p.123/c

MINISTRY OF HOME AFFAIRS
IS DIVISION (US D.IV)

(163)

* * * *

Prime Minister's Office may please refer to their U.O.No. G.16(4)/2000-NGO dated 21.11.2000 regarding de-classification of classified records to be submitted to Justice Mukherjee Commission of Inquiry.

2. Cabinet Secretariat vide their I.D.Note No. 281/12/1/2000-TS dated 14.9.2000 had communicated that they have the following files/documents concerning Netaji/I.N.A. :-

(i) Cabinet Note No. 1/18/68-Coins dated 17th May, 1968 regarding issue of Netaji Subhas Chandra Bose commemorative coin/coins on 21.10.68 on the occasion of the silver jubilee of the founding of the Azad Hind Government.

(ii) Cabinet Note No. I/12014/27/93-IS(D.III) dated 2.2.1995 regarding proposal to bring the mortal remains of Netaji Subhas Chandra Bose from Japan to India.

(iii) Cabinet Note No. I/12014/9/77-D.III(S&P) dated 17.11.1977 regarding Motion in the Lok Sabha by Shri Samar Guha for a fresh inquiry into the disappearance of Netaji Subhas Chandra Bose.

(iv) Cabinet Note No. 29/48/69-Poll.II dated 18.2.1970 regarding fresh inquiry into the disappearance of Netaji Subhas Chandra Bose in 1945 - Demand for.

(v) Cabinet Note No. 31/2/74-Poll(D.III) dated 27.8.1974 regarding the report of the one-man Commission of Inquiry into the disappearance of Netaji Subhas Chandra Bose.

(vi) Cabinet Note No. I/12014/6/90-IS(D.III) dated 10.1.1991 regarding dispute regarding ashes of Netaji Subhas Chandra Bose and also controversy about whether Netaji is dead or still alive.

(vii) Note for Committee of Secretaries No. I/12014/27/93-IS(D.III) dated 16.5.1994 regarding controversy about Netaji's death and allegations that he was an MI-6 agent.

3. The aspect whether these documents may be continued as classified or de-classified has been considered in this Ministry and it has been decided that documents at Sl.Nos. (ii)

ब.सं.हा. (एन.जी.ओ.)/PMO (NGO)

सं.सं./Dy. No. 81/2/5/2000

दिनांक/Date.....

304/अ. (A) 5/00
29/11/00

30/11/2000

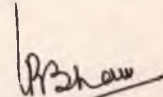
✓ Not available in NGO

On 29/11
US (NGO)
4/11

and (vii) may continue to be classified as these are those documents for which this Ministry has already filed a privilege affidavit before Justice Mukherjee Commission of Inquiry on 15.11.2000. As regards documents at Sl.Nos. (iii) to (vi), it has been decided that these may be de-classified.

With regard to document at Sl.No. (i), since this pertains to Ministry of Finance, Department of Economic Affairs, it is that Department who has to decide about its continued classification or de-classification. A reference has already been made to Department of Economic Affairs as also a reminder addressed to Under Secretary (Coins), Department of Economic Affairs but no response has so far been received. Accordingly, it is requested that PMO may take up the matter directly with Department of Economic Affairs to decide about this document.

4. This note issues with the approval of Home Secretary.



(V.P. BHATIA)

UNDER SECRETARY TO THE GOVT. OF INDIA.

Prime Minister's Office (Smt. Archana Ranjan, Director), South Block, New Delhi.

MHA I.D.Note No. I-12014/13/2000-IS(D.III) dated 29.11.2000.

OFFICE SERVICES

91332487589

Fax : 011-301-9545
(to) 011-301-8854

Tarakeswar Pal, Advocate
HIGH COURT CALCUTTA
Sr. Counsel, Bar Association Room No. 5
J.M. Commission Phones: 2411901/1902
Fax: (033) 248-2311
E-mail: barasoc@calnet.in
Residence
Noida, 20, 2000

165

To
Shri. Arunachal Ranjan, Director,
Prime Minister's Office,
Rashtriya Bhawan, New Delhi-110011.

Re: Justice Mukherjee Commission of Enquiry
And

Your letter dated 28-11-2000 under
No. G.15(4)/2000-MCO received by me on 28-11-2000

And
Draft Affidavit by Sri
Joint Secy R.P.M.

To apprise the matter in urgency, I am
P.M.O. required as under :-

As per Order containing in Para A(i) of proceeding dated 31st
August, 2000, the reasons of privilege as to disclosure of the contents of
the files mentioned in letter No. G-15(4)/2000-MCO dated July 22, 2000
should be mentioned.

b) As per Order in Para A(ii) of proceeding dated 31st
the particulars of destroyed files/papers to be mentioned.

c) As per Para A(iii) of the said Order dated 31-8-2000
availability of the files/documents mentioned in Para A(i) of the
dated March 23, 2000 in P.M.O. should be stated.

d) As per Para A(iv) of the said proceeding/Order, the
Affidavits of Competent
Ministers of the Govt. of India giving lists of all records, files
records/documents (whether secret, top secret or archiving in
Ministries (except 900 files with the National Archives) as per
of the proceeding dated 23rd March, 2000.

2. In view of above, as to privilege, stated above,
it should be restricted including the following:-
That the contents of the files/papers referred to in
the present reference should be as follows:-

1. Include a Para as to list above.
2. Include a Para as to list above.
3. Include a para giving details of other files/records
(other than covered by the said proceeding) as to
Other paragraphs of the said Affidavit be retained.
4. Other paragraphs of the said Affidavit be retained.
5. Other paragraphs of the said Affidavit be retained.
6. Other paragraphs of the said Affidavit be retained.

you have sent is inadequate - after para 9 there is no
Apparatus referred to in Affidavit is not with the
Joint Secy.

म.मं.का. (एन.जी.ओ.)/PMO (NGO)

क्र. सं./Dy. No. 231/9/2000

दिनांक/Date 30/11/2000

306/DIR (CA) S
29/11

US (NCO)

166

Confidential
Most Immediate

D.O.No.G.16(4)/2000-NGO

December 7, 2000


Dear

Government of India had appointed Justice Mukherjee Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhash Chandra Bose. In response to the directions issued by the Commission, this Office had sent photocopies of files, including classified files, to the Commission. A request was made to the Commission that while they may make use of the top secret papers available in the Prime Minister's files, in camera, they may consider not publishing the same. The Commission, however, directed this Office to assign reasons for claiming privilege in respect of classified papers.

2. As per the extant orders, concurrence of the Ministry/Department from which the classified paper originated, is necessary, for downgradation/declassification of the classification already given. A reference was accordingly made to the Director General, National Museum. Copies of the classified documents from our files were also attached for ready reference, on 14/15-9-2000. Final decision from the DG, National Museum has not yet been received so far.

3. DG, National Museum has taken up the matter with the Department of Culture, for conveying approval for declassification of the papers already forwarded to the Department of Culture by the National Museum, on 27th November, 2000. We shall be grateful if you would kindly look into the matter and have the views/comments regarding declassification of the National Museum papers, expedited.

Yours sincerely,


(Archana Ranjan)

Dr. R.V.V.Iyer,
Secretary,
Department of Culture,
Shastri Bhavan,
New Delhi.

प्र.मं.का. (एन.जो.ओ.)/PMO (NGO)
जारी/Issued.....
दिनांक/Date.....7.12.2000.....

(167)

Confidential
Most Immediate

ASHOK SAIKIA

Joint Secretary
Tel: 301 6996

D.O.No.G.16(4)/2000-NGO

Dated: December 8, 2000

Dear Dr. Iyer,

Government of India had appointed Justice Mukherjee Commission of Inquiry to enquire into the alleged disappearance of Netaji Subash Chander Bose. In response to the directions issued by the Commission, this office had sent photo copies of files, including classified files, to the Commission. A request was made to the Commission that while they may make use of the top secret papers available in the Prime Minister's files, in camera, they may consider not publishing the same. The Commission, however, directed this office to assign reasons for claiming privilege in respect of classified papers.

2. As per the extant orders, concurrence of the Ministry/Department from where the classified paper originated, is necessary, for downgradation/ declassification of the classification already given. A reference was accordingly made to the Director General, National Museum. Copies of the classified documents from our files were also attached for ready reference, on 14/15-9-2000. Final decision from the DG, National Museum has not yet been received so far.

3. DG, National Museum has taken up the matter with Ms Humera Ahmed, Director, Department of Culture, for conveying approval for declassification of the papers already forwarded to the Department of Culture by the National Museum, on 27th November, 2000. We shall be grateful if you would kindly look into the matter and have the views/comments regarding declassification of the National Museum papers, expedited.

Yours sincerely,

Dr. R.V.V. Iyer,
Secretary,
Department of Culture, Shastri Bhavan,
New Delhi.

(ASHOK SAIKIA)

(A. Langar)

Pgs. 1-2/c
&
Pg. 6-7/c

Pg. 12/c

Pgs.
28-29/c

Pg.
146/c
&
150/c

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
 FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
 'B' Block, (Third Floor)
 11/A Mirza Ghalib Street, Calcutta 700 087

Phone:

Chairman -- 216-2835
 Secretary -- 216-2767
 Officer on
 Special Duty -- 216-2765
 Office -- 216-2766/68

No. JMCI/Meeting-Proceedings
 (Follow up)/49 (Vol II)/388

Calcutta, dated, the **6th Dec'2000.**

From : Shri P.K.Sengupta, WBHJS (Retd).
Secretary

- To :**
- 1) Secretary, Ministry of Defence, Govt. of India,
South Block, New Delhi-100011.
 - 2) Secretary, Cabinet Secretariat, Rashtrapati Bhavan,
New Delhi-110004.
 - 3) Director General, National Archives, Ministry of Human
Resource Development, Janpath, New Delhi - 110001.
 - 4) Joint Secretary (Admn.) R. & A.W.
Bikanir House, Annexe, Room No.7, Sahajan Road,
New Delhi - 100011.
 - 5) Secretary, Ministry of Home Affairs, Govt. of India,
North Block, New Delhi - 110001.
 - 6) Secretary, P.M.'s Secretariat, South Block,
New Delhi - 110001.
 - 7) Secretary, Ministry of External Affairs, Govt. of India,
South Block, New Delhi - 110001.
 - Secretary, Home Department, Govt. of West Bengal,
Writers' Buildings, Calcutta-700001.

**Sub: Strict compliance with the orders
 directions contained in the
 proceedings dated 23.11.2000 read
 with the proceedings dated
 23.03.2000, 13.06.2000, 31.08.2000
 and 28.09.2000 of Justice
 Mukherjee Commission of Inquiry.**

Sir,

I am sending herewith a copy of the proceedings dated
 23.11.2000 of the Commission containing its orders and directions
 for your perusal and compliance thereof as directed by the Commission.

Copies of the proceedings dated 23.03.2000, 13.06.2000,
 31.08.2000 and 28.09.2000 of the Commission were sent to your
 office earlier.

Yours faithfully,

Encl. as stated above

(Signature)
 P. K. Sengupta

*DMO
 South Block*

7/12

DMR?

urgent today

8/12
h.s. (N90)

JUSTICE M.K. MUKHERJEE COMMISSION OF INQUIRY

Proceedings dated 23.11.2000 (Fifth)

Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

A. EXAMINATION OF WITNESSES

November 23 2000

1. Of the witnesses summoned, Shri Suman Chattopadhyay, Shri Anindya Sengupta, Shri Barun Sengupta, Shri Pabitra Kumar Ghosh and Shri Jayanta Roy are present. Shri Suman Chattopadhyay, Shri Barun Sengupta, Shri Anindya Sengupta and Shri Pabitra Kumar Ghosh have been duly examined on oath as witness Nos. 6, 7, 8, and 9 respectively and then discharged. Some documents have been admitted into evidence and marked as Exhibits 6, 6a and 6a/1 on admission by the C.W.6, Exhibits 7 to 7w on admission by the C.W.7, Exhibit 8 on admission by C.W.8 and Exhibits 9 to 9m on admission by C.W.9, without any objection by any of the parties. The examination of Dr. Purabi Roy as C.W.10 is now taken up. In her examination she testifies that the statements that she made in her affidavit filed before the Commission are correct. Accordingly, the affidavit filed by her is marked Exhibit 10. However, her examination cannot be concluded as she intends to bring on record a number of documents for which no list is forthcoming and many of which are in Russian language. Dr. Roy is, therefore, asked to file a list of documents and the translated version in English of those written in Russian language, with a supporting affidavit that the translation has been done correctly and truly. To enable her to comply with the above directions, her further examination is deferred till the next hearing and she is asked to appear on that date. The suggestion of some of the parties present that the documents in Russian language be translated by some other translator and not by Dr. Roy, as she figures as a witness, will be considered if and when any genuine complaint is made about the authenticity of the translation. Examination of Sri Jayanta Roy is also deferred as from the affidavit filed by Dr. Roy it appears that he is supposed to corroborate her testimony.

2. The other witness summoned, namely, Smt. Probha Jagannathan, is not present though summons was duly sent by speedpost to her at her address as furnished to the Commission. Let fresh summons be served

170

asking her to appear on the next date of hearing. Let summons be also served upon Sri Jayanta Roy to appear on that date.

B. FURTHER ORDERS/DIRECTIONS/OBSERVATIONS

1. The prayer of Smt. Archana Ranjan, Director, Prime Minister's office, seeking 15 days' time to file a consolidated affidavit covering all the points mentioned in the proceeding of the Commission from time to time is allowed. The above office is directed to file the same by 10.12.2000 through an officer not below the rank of a Joint Secretary.
2. In spite of repeated directions, no representative of the Ministry of Home Affairs has yet come to identify the documents referred to in paragraph 3(b)(i) of the order dated September 28, 2000 and prove their authenticity.
3. The application filed by Shri Kamal Pandey, Secretary, Ministry of Home Affairs, Government of India claiming privilege under Sections 123 and 124 of the Evidence Act and Article 74(2) of the Constitution of India in respect of the contents of the files mentioned in paragraph B(ii) of the proceedings dated August 31, 2000 will be taken up for hearing in the next sitting.
4. The documents mentioned in paragraph 3(b)(iii) of the order dated September 28, 2000 have neither been produced nor any explanation offered for such failure.
5. The directions contained in paragraph C(i) of the order dated August 31, 2000 have not been fully complied with, in that, the complete original records of the proceedings of the Shah Nawaz Khan Committee of Inquiry including the evidence recorded and the documents produced before the said Committee have not yet been sent. However, four letters, one paper cutting, one printed copy of the report of the Committee, one partly torn copy of the statement of one Shri Mathura Malanga Thevor, MLA bearing some initials and one full signature purported to be of Shri Thevor, some photographs of witnesses and 407 pages, typed but unauthenticated, purporting to contain statements of some witnesses before the said Committee, were received earlier.

(171)

The Ministry of External Affairs have since sent photocopies of the following files.

1. File No. 25/4/NGO - Vol. I
2. File No. 25/4/NGO - Vol. II (LW-KW)
3. File No. 25/4/NGO - Vol. III (LW-Annx)
4. File No. 25/4/NGO - Vol. IV (LW-KW.i)
5. File No. 25/4/NGO - Vol. V (LW-KW, I, II & III)
6. File No. 25/13/NGO - 52 (LW-KW)
7. File No. 25/14/NGO - 52
8. File No. 25/15/NGO - 52
9. File No. 25/16/NGO - 53

6(i) On March 23, 2000 the Commission directed the Government of West Bengal to produce all the files relating to Netaji Subhas Chandra Bose which were lying in the custody of the Special Branch, Calcutta Police including file No. 269/45 relating to 'Prisoner/Release - Revised Policy of Government, for the release of Security Prisoners' containing Memo. No. SS 129/SB dated 31st August, 1945 from the Commissioner of Police, Calcutta to H.S.E. Stevens, the then Chief Secretary, Government of Bengal. Express letter No. 1234 dated 25.8.1945 of Bengal Government and confidential note dated 3.9.1945 of D.R. Hardwick, D.I.G., I.B. In purported compliance of the above direction, the Government of West Bengal sent copies of 64 files along with lists thereof and also filed an affidavit dated July 28, 2000 through Shri Alok Nath Bhattacharyya, Special Secretary to the Government of West Bengal, Home (Political) Department wherein it is stated, inter alia, as follows :

"8/ That the Government of West Bengal caused a thorough search in the offices of Special Branch, Calcutta Police, Intelligence Branch, West Bengal and State Archives; that there is no such file bearing No. 269/45 regarding "Prisoner/Release-Revised Policy of Government for the release of Security Prisoners" in the records of Calcutta Police; that File No. 269/45 (Prisoners/Release-Revised Policy of Government for the release of Security Prisoners) containing Memo. No. SS.129/SB dated 31st August, 1945 from the Commissioner of

Police, Calcutta to H.S.E. Stevens, the then Chief Secretary Govt. of Bengal, express letter No. 1234 dated 25.8.45 of Bengal Government and Confidential note dated 3.9.45 of D.R. Hardwick, D.I.G., I.B. also do not figure in the Index Book of the Intelligence Branch, West Bengal; that there is no record preserved in the custody of State Archives relating to the disappearance of Netaji Subhas Chandra Bose and other papers connected thereto including copy of Bengal Government's express letter No. 1234 dated 25.8.45

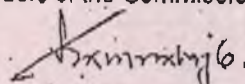
Copies of correspondences of Commissioner of Police, Calcutta, Dy. Inspector General of Police, Intelligence Branch, West Bengal and Director of Archives, Higher Education (State Archives) Deptt. in this connection are annexed herewith as Annexure "A" collectively."

Thereafter, following further direction of the Commission, the Government of West Bengal produced the original Index Books relating to files maintained by the Special and Intelligent Branches of Police. On scrutiny of the said Index Books and the copies of files sent, the Commission directed the Government of West Bengal to produce copies of some more files reference of which was in the Index Books but not sent to the Commission earlier. In compliance with the above direction, the Government of West Bengal sent copies of 13 (thirteen) more files including File No. 269/45 which contained memos and Note referred to hereinbefore.

6(ii) From the above resume of facts, it is manifest that the earlier quoted statements made by Shri Alok Nath Bhattacharyya, in his affidavit filed on July 28, 2000 are not at all correct. Since, however, Shri Bhattacharyya claims in his above affidavit that those averments were made on the basis of information received from Shri D.C. Bajpai, Commissioner of Police, Calcutta, and Shri A.K. Sen, Deputy Inspector General of Police, I.B., West Bengal and has, in support thereof, annexed as part of his affidavit the copies of written communications from them in this respect, it is patently clear that the above two responsible senior Police Officers furnished wrong information for onward communication to this Commission. The Commission therefore calls for the explanation of the above two Police Officers for furnishing such wrong information, by the next date of hearing.

(173)

7. Since the observations made by the Commission in Paragraph (e) of its proceedings dated 28.9.2000 have not been given due importance and priority they deserve, the Commission takes serious view of the matter and feels that time is now ripe to consider the question of invoking the powers under the provisions of section 5(4) of the Commission of Inquiry Act, 1952 for recurring non-compliance with the orders/directions of the Commission. In this connection, the attention of the authorities concerned is once more drawn to orders dated June 13, 2000, as quoted in paragraph 3(e) of the proceedings dated September 28, 2000 as also those communicated through various letters sent pursuant to the orders of the Commission.


(M.K. Mukherjee)
Chairman.

174

From: The Office of Sri Tarakeswar Pal
Advocate,
Sr. Counsel to Govt. of India,
In the Hon'ble Justice Mukherjee
Commission.

Room No. 5, Bar-Assoc
on, High Court, Calcutta

By Fax: 011-301-9545
011-301-6857

December 8, 2000.

To
Smt. Archana Ranjan,
Director,
Prime Minister's Office,
South Block, New Delhi-110011.

Dear Madam,

Re: Proceeding before the Hon'ble Justice M.K.
Mukherjee Commission.

Kindly ask Sri P.S. Lalay, U. Secy. of your Department
send the relevant Rules or Orders or Law as to allocation of
matters of dealing (as my leader Sri Tarakeswar, had discussed
him on 30.11.2000 in Calcutta) for the purpose of hearing on
privilege, as claimed by you, on the next hearing of the Hon'ble
Commission on 27th December, 2000. Please ask to send such
before 20th December, 2000.

Thanking you,

Yours faithfully,

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pl expedite
& spk
An
8/12
us (pao)
11/12

(175)

From:
The Office of Sri Tarakeswar Pal, Advocate,
Sr. Counsel to Govt. of India,
Before the Hon'ble Justice Mukherjee Commission
Bar- Association, Room No. 5,
High Court, Calcutta.

By Fax- 011-372-2285

m

December, 8, 2000

To
Shri Jayant Prasad
Joint Secretary,
Ministry of External Affairs,
Govt. of India,
South Block,
New Delhi- 110 001.

Dear Sir,

Re: Proceeding before the Hon'ble Justice
Mukherjee Commission of Inquiry on Bar,
at Mahabati Bagan, Calcutta.

Please ensure, immediate compliance of the requisitioned
my leader Sri Tarakeswar Pal, conveyed in Paragraphs Nos. 1(a)
1(b) of his Fax letter dated 30.11.2000, before 20th December,
without fail. (The next hearing has been refixed on 22nd Decem-
2000).

Thanking you,

Yours faithfully,

(Signature)
(Animesh Majumdar)
Advocate &
Sr. Counsel to Govt.
Justice M.K. Mukherjee
Commission.

176

BY FAX
Most Immediate

No.G-16(4)/2000-NGO
PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110 011

Dated 13th December, 2000

To

(Fax No. 033 - 248 - 2313)

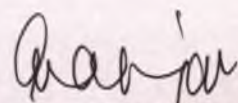
Shri Tarakesuar Pal,
Advocate & Sr. Counsel for Govt. of India,
Bar Association Room No.5,
High Court,
Calcutta.

Sub:- **Justice Mukherjee Commission of Inquiry - hearing of**
22.12.2000.

Sir,

I am directed to refer to your letter dated 8th December, 2000 addressed to Smt. Archana Ranjan, Director, PMO (received on FAX) on the above subject and to forward herewith extracts from the Manual of Office Procedure, and Allocation of Business Rules (Govt. of India) for your information. In case any further information/clarification is required, please get in touch with us, immediately.

Yours faithfully,


(ARCHANA RANJAN)

Director

Tel: 301 3931

FAX No. 011-301-9545

011-301-6857

Encls. 8 pages.

UNCLASSIFIED

DATE, TIME
FBI NO. NAME
DURATION
PAGE(S)
RESULT
NOTE

FORMATION REPORT

TIME : 14/12/2000 10:14
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TEL :

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STANDARD

CHAPTER XI

RECORDS MANAGEMENT

96. Activities involved in records management.—Records management covers the activities concerning recording, retention, retrieval and weeding out.

97. Stage of recording.—Files should be recorded after action on the issues considered thereon has been completed. However, files of a purely ephemeral nature containing papers of little reference or research value may be destroyed after one year without being formally recorded.

98. Procedure for recording.—(1) After action on the issue(s) considered on the file has been completed, the dealing hand/initiating officer, in consultation with his supervisory officer, should close and record the file in the manner prescribed below—

- (a) indicate the appropriate classification of record (*vide* para. 99 below) and in the case of class 'C' also specify the retention period and the year of destruction on the file cover;
 - (b) where necessary, revise the title of the file so that it describes adequately the contents at that stage;
 - (c) get the file indexed (*vide* para. 101 below) unless it is to be retained for less than 10 years from the date of closing;
 - (d) extract from the file, copies of important decisions, documents, etc., as are considered useful for future reference and add them to the standing guard file/precedent book;
 - (e) remove from the file all superfluous papers such as reminders, acknowledgements, routine slips, working-sheets, rough drafts, surplus copies, etc., and destroy them;
 - (f) complete all references and, in particular, mark previous and later references on the subject on the file cover;
 - (g) pass on the file to the record clerk;
- (2) The record clerk will—
- (a) complete columns (4) and (5) of the file register and correct the entry in column (2) where necessary;
 - (b) enter the file number in column (2) of the register for watching progress of recording (Appendix 24);
 - (c) write the word 'recorded' prominently in red ink, across the entries in the file movement register;

- (d) indicate page numbers and other references (except references to alphabetical slips) made in pencil/in ink;
- (e) indicate the year of review on the file cover in respect of class 'C' files;
- (f) prepare fresh covers, where necessary, with all the entries already made thereon; and
- (g) hand over the file to the daftly.

(3) The daftly will repair the damaged papers, if any, stitch the file and, show it to the record clerk for making entries in the register for watching progress of recording (Appendix 24) before keeping it in the bundle of recorded files.

99. Classification of records.—Files may be recorded under any one of the following classes:—

(1) *Class 'A' meaning 'keep and microfilm'.*—This classification will be adopted for—

- (a) files which qualify for permanent preservation for administrative purposes (*vide* Part 'A' of Appendix 25) and which have to be microfilmed because they contain—
 - (i) a document so precious that its original must be preserved intact and access to it in the original form must be restricted to the barest minimum; or
 - (ii) material likely to be required for frequent reference by different parties.

(b) files of historical importance such as those listed in Part 'B' of Appendix 25.

(2) *Class 'B' meaning 'keep but do not microfilm'.*—This class will cover files required for permanent preservation for administrative purposes, such as those listed in Part 'A' of Appendix 25, but not containing material of the kind mentioned in (i) or (ii) of sub-para. (1) (a) above.

(3) *Class 'C' meaning 'keep for specified period only'.*—This class will include files of secondary importance and having reference value for a limited period not exceeding 10 years.

100. Stage of indexing.—Files will be indexed at the time of their recording. Only those files which are categorised as 'A' and 'B' and those in the 'C' category which are to be retained for 10 years (*vide* para. 99) will be indexed.

101. Manner of indexing.—While preparing a file for record (*vide* para. 98) the dealing hand or the desk assistant will underline—

- (a) the 'index head', i.e., the standard head or the most important catch-word in the standard head which will naturally occur

(179)

in respect of records, relating to establishment, personnel and housekeeping matters common to all departments, follow the 'schedule of periods of retention for records common to all departments' issued by the Department of Administrative Reforms and Public Grievances;

- (c) in respect of records prescribed in this Manual, observe the retention periods specified in Appendix 28; and
- (d) in respect of records, connected with its substantive functions, issue a departmental retention schedule prescribing the periods for which files dealing with specified subjects should be preserved in consultation with the National Archives of India.

(2) The above schedules should be reviewed at least once in 5 years.

106. Custody of records.—(1) Recorded files will be kept serially arranged in the sections/desks concerned for not more than one year, after which they will be transferred to the departmental record room. For files due for such transfer the register at Appendix 24 will be consulted.

(2) In the event of transfer of work from one section to another, the relevant files also will be transferred, after being listed in duplicate in the form at Appendix 29. One copy of this list will be retained by the section taking over the files for its record and the other acknowledged and returned to the section transferring them

(3) Files transferred by a section to the departmental record room will be accompanied by a list of files (Appendix 29) in duplicate. The departmental record room will verify that all the files mentioned in the list have been received, retain one copy of the list and return the other, duly signed, to the section concerned. In the record room, these lists will be kept sectionwise in separate file covers.

(4) The departmental record room will maintain a record review register (Appendix 30) in which a few pages will be allotted for each future year. Class 'C' files marked for review in a particular year will be entered in the pages earmarked for that year in the register.

(5) Files surviving the review undertaken on their attaining the 25th year of life [vide para. 107 (3)] will be stamped prominently as 'transferred to NAI' and retired to the National Archives. Files transferred to the National Archives will be accompanied by a list of files in triplicate, one copy of which will be returned by the National Archives, duly signed, to the departmental record room.

107. Review and weeding of records.—(1) A class 'C' file will be reviewed on the expiry of the specified retention period and weeded out unless there are sufficient grounds warranting its further retention. Justification for retaining a file after review will be recorded on the file with the approval of Branch Officer/Divisional Head concerned. Retention after a review will be for a period not exceeding ten years.

(3)

(2) Class 'A' and class 'B' files will be reviewed on attaining the 25th year of their life in consultation with the National Archives of India. In these reviews, the need for revising the original classification of class 'B' files may also be considered.

(3) The year of review of class 'C' files be reckoned with reference to the year of their closing and that for class 'A' and class 'B' files with reference to the year of their opening.

(4) Beginning in January each year, the departmental record room will send to the sections/desks concerned the files due for review in that year, together with a list of files in the form at Appendix 31, in four lots—in January, April, July and September.

(5) Files received for review will be examined by, or under the directions of, the Section Officer or the desk functionary concerned and those no longer required will be marked for destruction. Other files may be marked for further retention *vide* sub-para. (2) and (3).

(6) After review the record clerk/desk assistant will make entries of revised classification/retention period in the file registers and return them to the departmental record room along with the list (Appendix 31) after completing column (3) thereof.

(7) The departmental record room will—

(a) transfer class 'A' and class 'B' files surviving the review undertaken at the 25th year of their life *vide* sub-para. (3) above, to the National Archives;

(b) in the case of other files—

(i) destroy those marked for destruction, after completing column (4) of the list of files (Appendix 29); and

(ii) restore the rest, i.e., those marked for further retention, to the departmental record stacks after making the required entries in the record review register in the case of class 'C' files.

(8) Records not falling within the category of files, e.g., publications, spare copies of circulars, orders, will also be subjected to periodic reviews at suitable intervals and those no longer needed, should be weeded out. To facilitate such reviews each section will maintain a register in the form at Appendix 32.

108. Records maintained by officers and their personal staff.—Each department may issue departmental instructions to regulate the review and weeding out of records maintained by officers and their personal staff.

109. Requisitioning of records.—(1) No recorded file will be issued from the sectional, departmental or Archival records except against a signed requisition in form O & M 65 in the case of Archival records and in the form at Appendix 33 in the case of other records.

(2) **How records are created.**—The creation of records in any organisation takes place during the process of its activities/operations. The records in Government Offices are created because of the following factors:—

- (a) *External Activities.*—These take the shape of all communications received from outside.
- (b) *Internal Activities.*—These take the shape of written communications conveying information/decision from all levels of authorities and analysis of various reports/returns, etc.
- (c) *Mini Records.*—They show the essential of original documents and take the shape of running summary of facts, standing notes and standing guard files, etc. These save officers' time and help in taking quick decisions.

(3) **Why it is necessary to retain records.**—It becomes necessary to retain records—

- (i) for planning and scheduling Government's activities as information required for this purpose cannot be retained by human memory;
- (ii) retention of record is a legal requirement in certain cases;
- (iii) for fixing responsibility for matters coming before Audit and Parliament, and its Committees and other public bodies;
- (iv) for historical value;
- (v) for ensuring element of rationality;
- (vi) to make available needed facts, figures, correspondence, etc., for future planning;
- (vii) to ensure continuity in administration;
- (viii) to ensure impartial treatment to all citizens;
- (ix) to ensure that tax-payers' interests are protected at all times and that there is no irregularity in financial transactions; and
- (x) for providing evidence in cases of disputes.

(4) **Problem of Records.**—1. In view of the proliferation of Government activities in all spheres, the paper record has multiplied manifold and has increased beyond all proportion. To give an idea of the immensity of the problem, one may go through the report of the Tara Chand Committee on Archival Legislation of 1960, in which the total accumulations of Central Ministries and other Government Departments and Organisations had been estimated about 40 and 136 linear miles of shelving respectively, the total being 11 times the size of the National Archives Repository, which has 16 miles shelves. The annual consumption of file covers by all the departments of the Central Government had been estimated at Rs. 2 crores. A proper check on the growth of records is, therefore, essential right from the stage of creation. It is to be noted here that the National Archives of India maintains records which have been given to it only up to the year 1947.

(5)

APPENDIX 25

ILLUSTRATIVE LIST OF RECORDS FIT FOR PERMANENT PRESERVATION BECAUSE OF (A) THEIR VALUE FOR ADMINISTRATIVE PURPOSES, AND (B) THEIR HISTORICAL IMPORTANCE

[vide Para. 99 (1) (a), (b) and (2)]

A. Records of value for administrative purposes

Papers of the following categories will normally be among those required to be kept indefinitely for administration's use:—

- (1) Papers containing evidence of rights or obligations of or against the Government, e.g., title to property, claims for compensation not subject to a time-limit, formal instruments such as awards, schemes, orders, sanctions, etc.
- (2) Papers relating to major policy decisions, including those relating to the preparation of legislation.
- (3) Papers regarding constitution, functions and working of important committees, working groups, etc.
- (4) Papers providing lasting precedents for important procedures, e.g., administrative memoranda, historical reports and summaries, legal opinions on important matters.
- (5) Papers concerning rules, regulations, departmental guides or instructions of general application.
- (6) Papers relating to salient features of organisation and staffing of Government departments and offices.
- (7) Papers relating to important litigation or *causes celebres* in which the administration was involved.

B. Records of Historical importance

Much of the material likely to be preserved for administrative purposes will be of interest for research purpose as well; but papers of the following categories should be specially considered as of value to historians:—

- (1) Papers relating to the origin of a department or agency of Government ; how it was organised; how it functioned; and (if defunct) how and why it was dissolved.
- (2) Data about what the department/agency accomplished. (Samples by way of illustration may be enough; but the need for such samples may be dispensed with where published annual reports are available).

- (3) Papers relating to a change of policy. This is not always easy to recognise, but watch should be kept for (a) summary for a Minister, (b) the appointment of a departmental or inter-departmental committee or working group, and (c) note for the Cabinet or a Cabinet Committee. Generally there should be a conscious effort to preserve all such papers, including those reflecting conflicting points of view. In the case of inter-departmental committees, however, it is important that a complete set of papers be kept only by the departments mainly concerned — usually the one providing secretariat.
- (4) Papers relating to the implementation of a change of policy, including a complete set of instructions to executive agencies, etc., and relevant forms.
- (5) Papers relating to a well-known public or international event or *cause celebre*, or to other events which gave rise to interest or controversy on the national plane.
- (6) Papers containing direct reference to trends or developments in political, social, economic or other fields, particularly if they contain unpublished statistical or financial data covering a long period or a wide area.
- (7) Papers cited in or noted as consulted in connection with, official publications.
- (8) Papers relating to the more important aspects of scientific or technical research and development.
- (9) Papers containing matters of local interest of which it is unreasonable to expect that evidence will be available locally, or comprising synopsis of such information covering the whole country or a wide area.
- (10) Papers relating to obsolete activities or investigations, or to abortive schemes in important fields.
- (11) Any other specific categories of records which, according to the departmental instructions issued in consultation with the National Archives, have to be treated as genuine source of information on any aspect of history—political, social, economic, etc., or are considered to be of biographical or antiquarian interest.

*Extracts from Allocation of Business Rules as
on 9.4.79, issued by the Cabinet Secretariat*

92

(184)

**PRIME MINISTER'S OFFICE
(PRADHAN MANTRI KARYALAYA)**

1. To provide secretarial assistance to the Prime Minister.



Jarnail Singh
Joint Secretary to
The Prime Minister
 Tel: 301 5697

Confidential
By Special Messenger
 प्रधान मंत्री कार्यालय
 नई दिल्ली 110 011
PRIME MINISTER'S OFFICE
NEW DELHI 110 011

185

D.O. No. G.16(4)/2000-NGO

Date: 14.12.2000

Dear

Please refer to D.O. letter of even number dated 7.12.2000 from Ms. Archana Ranjan, Director in this Office, regarding declassification of classified papers which originated from the National Museum/Department of Culture, so that Justice Mukherjee Commission of Inquiry, appointed to enquire into the alleged disappearance of Netaji Subash Chandra Bose, could make use of those records in connection with the Inquiry and to make the same public, etc. Now the Commission has fixed the next date of hearing at Calcutta on 22.12.2000. We would be expected to apprise the Commission of the position with regard to classified papers pertaining to the National Museum/Department of Culture. It would be possible to formulate our stand/views only if we know the final decision of the National Museum/Department of Culture, sufficiently in advance.

2. We shall be grateful if you could kindly look into the matter and have the views/comments regarding declassification of the National Museum papers, expedited.

Yours sincerely,

Jarnail Singh
 (Jarnail Singh)

Dr. R.V.V. Iyer,
Secretary,
Dept. of Culture,
Shastri Bhavan,
New Delhi.

o/c

RF 19/12

प्र.सं.का. (एम.जी.आर.)/एम.जी.आर. (NGO)
 जारी/Issued: 14/12/2000
 (दिनांक) Date: 14/12/2000

964/03(J)/5/14/12 77/15/JS(J)/00
 74/12



(186)

Scanned

पर्यटन एवं संस्कृति मंत्रालय
संस्कृति विभाग
भारत सरकार

नई दिल्ली - ११० ००१

MINISTRY OF TOURISM & CULTURE
DEPARTMENT OF CULTURE
GOVERNMENT OF INDIA
NEW DELHI - 110001

Humera Ahmed
Director (H)
Tel No # 3382797

14 December 2000

DO No # F.No.13-38/2000-M.I

Dear *Archana*,

This is with reference to your letter dated 4.12.2000 to the Secretary, Deptt. of Culture, regarding de-classification of the National Museum papers required by the Justice Mukherjee Commission, which is enquiring into alleged disappearance of Netaji Subhash Chandra Bose. The matter is being addressed at the highest level and will revert back to you very soon.

With regards,

Yours sincerely,

Humera Ahmed
18/12

Ms Archana Ranjan
Director
Prime Minister's Office
New Delhi

(Humera Ahmed)

प्र.मं.वा. (एन.जी.ओ.)/PMO (NGO)
सं.सं./Dy. No... 843/5/2000
दिनांक/Dt... 18-12-2000

331(DIR(M))
18/12



डा. आर. वी. वैद्यनाथ अय्यर
Dr. R. V. Vaidyanatha Ayyar
Tel. : 3386995, 3381040
Fax : 3384093



187

TOP SECRET
सचिव

भारत सरकार
पर्यटन और संस्कृति मंत्रालय
संस्कृति विभाग
नई दिल्ली - ११० ००१
SECRETARY
GOVERNMENT OF INDIA
MINISTRY OF TOURISM & CULTURE
DEPARTMENT OF CULTURE
NEW DELHI - 110001

D.O.No.13-38/2000-M.I

December 15, 2000

Dear Shri Mansingh,

Please find enclosed herewith a copy of the U.O. No.16(4)/2000-NGO dated 14/15th September 2000 received from the Prime Minister's Office (PMO) regarding declassification of documents /articles deposited in the National Museum.

As per the information of National Museum, the Ministry of External Affairs deposited a box marked as TOP SECRET, which was handed over by Shri Devi Dayal Bhatia, Deputy Secretary, Ministry of External Affairs (AD I) to Shri J.K.Roy, Superintendent, Central Asian Antiquity Museum (National Museum) on 30th December 1953. Entries were made on the same day in the General Accession Register (GAR) of the National Museum (Copy of the relevant pages of the GAR enclosed for ready reference). PMO have asked this Department whether a view, if any, has been taken regarding the declassification (of these articles) and production before the Inquiry Commission.

In terms of the Manual of Departmental Security Instructions issued in 1994 by the Ministry of Home Affairs, documents, etc. once classified as TOP SECRET, etc., by the Department from where the concerned classified documents /material have originated, only that Department shall be competent to revise the classification/grading of the same.

In terms of these instructions, MEA is the competent Ministry/authority to take a view on the declassification of these records/articles.

In view of the urgency expressed by the PMO, you may like to take necessary action immediately. I enclose for ready reference, a letter from Shri Jarnail Singh, JS, PMO in the matter.

Yours sincerely,

(R.V.Vaidyanatha Ayyar)

Encl: As above

Shri Lalit Mansingh
Foreign Secretary,
South Block, New Delhi.

Copy to Shri Jarnail Singh, JS, PMO with reference to his D.O.No.G.16(4)/2000-NGO dated 14.12.2000, for information.

(Chitra Chopra)
Addl. Secretary

78/TS/JS(J)/00
16/12
27/Dir(A)/TS/00
18/12

This is important
Please show me
the file immediately

Dir(A) has
16/12
19/12

3925/000/00

Page No. 126

NMI

T-2(64)/78-PM

188

National Museum of India

-3-

①

TOP SECRET

4/2/53
hrt. The approval of JS(A)
vide dvm 19/12/53 (2/20)
Location
Room Class Shelf

Extracts from the General Accession Register, Volume I

Date acquired	No.	Previous and/or Excavation No. Etc.	Source	Short Description	Date or period	Locality	Remarks and references	Location Room Class Shelf
The contents of this page are to be treated under the Official Secrets Act and any person divulging them would be punishable under the same Act, for reasons stated below:-								
30.xii.53	53.22		Shri D.D. Bhatia D.S. E&A Ministry (A.D.I.)	Gold and other objects taken from Shri Ramamurti on 24.9.51 by the Indian Embassy at Tokyo <u>Bundle No. 1 (opened)</u> Package I Charred rings and pendants Package II Charred and broken bangles, pins, buckles, etc. Package III Charred and broken bangles, pendants, snuff box, medals coins and rings Package IV Charred necklace pieces medals and rings Package V Charred ear-rings, nose rings, rings set with stones mostly Package VI Charred and broken bangles and anklets Package VII Charred and broken rings, nose rings and pendants Package VIII Charred rings and nose rings.	1945		These I.N.A. Treasure are kept in a grey steel box, locked and covered by a diplomatic Bag, sealed with the seal of the N.C.O. Section of the External Affairs Ministry at two places in the presence of Shri D.D. Bhatia	Iron safe No.48

189

NMI
T-2(64)/78-PM.

-4-

2

~~Top Secret~~

to see
note at 2/4
2/17

Page No. 127

National Museum of India
Extracts from the General Accession Register, Volume I

Date Acquired	No.	Previous and/or Excavation No. etc.	Source	Short description	Date or period	Locality	Remarks and references	Location Room Class Shelf
30.x1153 43.22				Package IX Charred necklace, bangles bronches and nose rings Package X Charred ear-rings with stones, and rings Package XI Charred rings Package XII Charred rings and chain Package XIII Charred rings and buttons Package XIV Charred ear-pendants			These I.N.A. Iron safe No. 48 Treasure are kept in a gray steel-box, locked and covered by a Diplomatic Bag, Sealed with the Seal of the N.G.O. Section of the External Affairs Ministry at two places in the presence of Shri D.O. Bhatia	
contd. from pp.				Bundle 2 (closed) Charred gold mixed with molten metal, iron etc.				
				Bundle 3 (closed) Metal mostly base and dust				
				Ayer's lot 9 pieces of gold, said to be 300 grams.				

The contents of this page are to be treated under the Official Secrets Acts, and any person divulging them would be punishable under the same Act for reasons stated above.

D.O.No.G-16(4)/2000-NGO

December 15, 2000

190
most Immediate

Dear

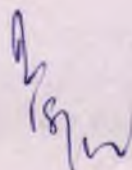
Justice Mukherjee Commission of Inquiry has been appointed by the Government of India to enquire into the alleged disappearance of Netaji Subash Chandra Bose. We have claimed privilege in respect of certain classified documents available on our files. The Commission is considering the request in its hearing on 22nd December, 2000 at Calcutta. The Government Counsel assisting this Office has desired to know the details of the business allocated to this Office so that these are handy while arguing the case before the Commission.

2. We shall be grateful if an up-to-date copy each of the Allocation of Business Rules and Transaction of Business Rules, along with instructions, if any, regarding disclosure of contents of the instructions, is sent to us for reference in this Office, immediately.

Yours sincerely,


(Archana Ranjan)

Shri V.K. Gauba
Deputy Secretary
Cabinet Secretariat
Rashtrapati Bhawan
New Delhi


Issued
80
18/12/2000



Jarnail Singh
Joint Secretary to
The Prime Minister
☎: 301 5697

Confidential
By Special Messenger

प्रधान मंत्री कार्यालय
नई दिल्ली 110 011

PRIME MINISTER'S OFFICE
NEW DELHI 110 011

D.O. No. G.16(4)/2000-NGO

Date: 14.12.2000

Dear Dr. R.V.V. Iyer,

Please refer to D.O. letter of even number dated 7.12.2000 from Ms. Archana Ranjan, Director in this Office, regarding declassification of classified papers which originated from the National Museum/Department of Culture, so that Justice Mukherjee Commission of Inquiry, appointed to enquire into the alleged disappearance of Netaji Subhash Chandra Bose, could make use of those records in connection with the Inquiry and to make the same public, etc. Now the Commission has fixed the next date of hearing at Calcutta on 22.12.2000. We would be expected to apprise the Commission of the position with regard to classified papers pertaining to the National Museum/Department of Culture. It would be possible to formulate our stand/views only if we know the final decision of the National Museum/Department of Culture, sufficiently in advance.

2. We shall be grateful if you could kindly look into the matter and have the views/comments regarding declassification of the National Museum papers, expedited.

Yours sincerely,

Sd/-

(Jarnail Singh)

Dr.R.V.V. Iyer,
Secretary,
Department of Culture,
Shastri Bhavan,
New Delhi.

Copy to:

✓ **Shri M.B. Kaushal, Special Secretary, MHA.**

Issued
Sd/-
19/12/2000

9
Jarnail Singh
Jt. Secy. to PM
19/12/2000

Most Immediate

Prime Minister's Office

Justice Mukherjee Commission of Inquiry has been appointed to enquire into the alleged disappearance of Netaji Subash Chandra Bose. The Commission had, inter-alia, directed that all information to be furnished in terms of the orders/directions to the Commission must be supported by an affidavit of Competent Officers, not below the rank of a Joint Secretary to the Government of India.

2. This Office made available photocopies of all the files, including classified files, to the Commission. The files with the Prime Minister's Office contained classified letters written by various Ministries/Departments/State Governments. The Ministry of Home Affairs, who were consulted in the matter, advised this Office not to declassify some of their letters, available on the PMO files. That Ministry also claimed privilege in respect of the two files, through an affidavit signed by the Home Secretary as Head of Office. Consequently, this Office also claimed privilege, by an affidavit filed by Joint Secretary in the Prime Minister's Office in respect of the classified MHA papers, available on the PMO files. Under Sections 123 - 124 of the Evidence Act privilege has to be claimed by the 'Head of Department'.

3. Under Section 3 (d) of Delegation of Financial Powers Rules, 1978, "Department of the Central Government" means a Ministry or a Department of the Central Government as notified from time to time and includes the Planning Commission, the Department of parliamentary Affairs, the President's Secretariat, the Vice-President's Secretariat, the Cabinet Secretariat and the Prime Minister's Office.

Under Section 3. (f) of the Delegation of Financial Powers Rules, 1978, "Head of the Department" in relation to an office or offices under his administrative control, means an authority specified in Schedule I and includes such other authority or person as the concerned Department in the Central Government may, by order, specify, as a Head of the Department.

Provided that such a person is the Head of an identifiable organisation and the minimum of this revised scale of pay is not lower than that of a Deputy Secretary to the Government of India.

4. In terms of the above rules, Smt. Archana Ranjan, Director in this Office was declared as Head of the Department in respect of this Office for the purposes of Rule 3 of the Delegation of Financial Powers Rules, 1978 and other Financial Rules w.e.f. 14-8-1998, until further orders. The Affidavit filed by Joint Secretary to PM before the Commission had

< by way of abundant caution @F/B' the approval both of the designated Head of Department and Secretary to PM. In the affidavit, filed before the Commission on 30th November, 2000, it was specifically mentioned in para[@]7 of the affidavit that permission to withhold to produce the said records or the disclosures of the contents or to give any evidence derived from the papers in respect of which the privilege was being claimed, had the approval of the Head of Department. As mentioned above, the Head of the Department, duly declared by this Office, is Smt. Archana Ranjan, Director, who is junior to Joint Secretary to PM. However, our Government Counsel at Calcutta informed us verbally that during the hearing on 22.12.2000, the Hon'ble Mr. Justice Mukherjee had observed that the affidavit claiming privilege ought to have been signed by an officer of the rank of Secretary to Government of India. As has already been explained above, the affidavit claiming privilege and furnishing other information was sent over the signatures of Joint Secretary to PM, keeping in view the directions of the Commission that all information is to be furnished at least by an officer of the rank of Joint Secretary to Government of India.

5. In view of the above, observation made by Mr. Justice Mukherjee advice of Ministry of Law is solicited as to whether another affidavit would require to be filed before the Commission over the signatures of the 'Head of Department' as per the orders issued by PMO in September, 1998, i.e. by Smt. Archana Ranjan, Director, or it would be necessary/advisable/ mandatory for Secretary to PM to file a supplementary affidavit claiming privilege in respect of the classified papers. As the next date of hearing is 17th January, 2001, this may please be treated as Most Immediate.

02/01/01
(P.S. Lally)

Under Secretary

Director (A)

Sd/- 2-1-2001

✓ Ministry of Law, Justice & Company Affairs (Deptt. of Legal Affairs, Advice 'A' Section), Shastri Bhavan, New Delh.

PMO U.O.No.G-16(4)/2000-NGO

dated 02.01.2001

Issued (last file)
No. G-16(4)/2000-NGO
(Note p. 9, Govt. p. 9)
3/1/2001

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Calcutta 700 087

Phone:

Chairman -- 216-2835
Secretary -- 216-2767
Officer on
Special Duty -- 216-2765
Office -- 216-2766/63

194

No. JMCI/Meeting-Proceedings
(Follow up)/48 (Vol II)/388

Calcutta, dated, the 6th Dec'2000.

From : Shri P.K.Sengupta, WBHJS (Retd).
Secretary

- To : 1) Secretary, Ministry of Defence, Govt. of India,
South Block, New Delhi-100011.
- 2) Secretary, Cabinet Secretariat, Rashtrapati Bhavan,
New Delhi-110004.
- 3) Director General, National Archives, Ministry of Human
Resource Development, Janpath, New Delhi - 110001.
- 4) Joint Secretary (Admn.) R. & A.W.
Bikanir House, Annexe, Room No.7, Sahajan Road,
New Delhi - 100011.
- 5) Secretary, Ministry of Home Affairs, Govt. of India,
North Block, New Delhi - 110001.
- 6) Secretary, P.M's Secretariat, South Block,
New Delhi - 110001.
- 7) Secretary, Ministry of External Affairs, Govt. of India,
South Block, New Delhi - 110001.
- 8) Secretary, Home Department, Govt. of West Bengal,
Writers' Buildings, Calcutta-700001.

Sub: Strict compliance with the orders/
directions contained in the
proceedings dated 23.11.2000 read
with the proceedings dated
23.03.2000, 13.06.2000, 31.8.2000,
and 28.09.2000 of Justice
Mukherjee Commission of Inquiry.

Sir,

I am sending herewith a copy of the proceedings dated
23.11.2000 of the Commission containing its orders and directions
for your perusal and compliance thereof as directed by the Commission.

Copies of the proceedings dated 23.03.2000, 13.06.2000,
31.08.2000 and 28.09.2000 of the Commission were sent to your
office earlier.

Yours faithfully,

(P. K. Sengupta)
Secretary

Encl: as stated above

copy may be given
to US (orgo).

File : 0091-033-216-2765

e-mail : jmcinscb@cal3.vsnl.net.in

US (orgo)

JUSTICE M.K. MUKHERJEE COMMISSION OF INQUIRY

Proceedings dated 23.11.2000 (Fifth)

Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

195

A. EXAMINATION OF WITNESSES

- November 23 2000
1. Of the witnesses summoned, Shri Suman Chattopadhyay, Shri Anindya Sengupta, Shri Barun Sengupta, Shri Pabitra Ghosh, Dr. Purabi Roy and Shri Jayanta Roy are present. Shri Suman Chattopadhyay, Shri Barun Sengupta, Shri Anindya Sengupta and Shri Pabitra Kumar Ghosh have been duly examined on oath as witness Nos. 6, 7, 8, and 9 respectively and then discharged. Some documents have been admitted into evidence and marked as Exhibits 6, 6a and 6a/1 on admission by the C.W.6, Exhibits 7 to 7w on admission by the C.W.7, Exhibit 8 on admission by C.W.8 and Exhibits 9 to 9m on admission by C.W.9, without any objection by any of the parties. The examination of Dr. Purabi Roy as C.W.10 is now taken up. In her examination she testifies that the statements that she made in her affidavit filed before the Commission are correct. Accordingly, the affidavit filed by her is marked Exhibit 10. However, her examination cannot be concluded as she intends to bring on record a number of documents for which no list is forthcoming and many of which are in Russian language. Dr. Roy is, therefore, asked to file a list of documents and the translated version in English of those written in Russian language, with a supporting affidavit that the translation has been done correctly and truly. To enable her to comply with the above directions, her further examination is deferred till the next hearing and she is asked to appear on that date. The suggestion of some of the parties present that the documents in Russian language be translated by some other translator and not by Dr. Roy, as she figures as an witness, will be considered if and when any genuine complaint is made about the authenticity of the translation. Examination of Sri Jayanta Roy is also deferred as from the affidavit filed by Dr. Roy it appears that he is supposed to corroborate her testimony.
 2. The other witness summoned, namely, Smt. Probha Jagannathan, is not present though summons was duly sent by speedpost to her at her address as furnished to the Commission. Let fresh summons be served

asking her to appear on the next date of hearing. Let summons be also served upon Sri Jayanta Roy to appear on that date.

B. FURTHER ORDERS/DIRECTIONS/OBSERVATIONS

1. The prayer of Smt. Archana Ranjan, Director, Prime Minister's office, seeking 15 days' time to file a consolidated affidavit covering all the points mentioned in the proceedings of the Commission from time to time is allowed. The above office is directed to file the same by 10.12.2000 through an officer not below the rank of a Joint Secretary.
2. In spite of repeated directions, no representative of the Ministry of Home Affairs has yet come to identify the documents referred to in paragraph 3(b)(i) of the order dated September 28, 2000 and prove their authenticity.
3. The application filed by Shri Kamal Pandey, Secretary, Ministry of Home Affairs, Government of India claiming privilege under Sections 123 and 124 of the Evidence Act and Article 74(2) of the Constitution of India in respect of the contents of the files mentioned in paragraph B(ii) of the proceedings dated August 31, 2000 will be taken up for hearing in the next sitting.
4. The documents mentioned in paragraph 3(b)(iii) of the order dated September 28, 2000 have neither been produced nor any explanation offered for such failure.
5. The directions contained in paragraph C(i) of the order dated August 31, 2000 have not been fully complied with, in that, the complete original records of the proceedings of the Shah Nawaz Khan Committee of Inquiry including the evidence recorded and the documents produced before the said Committee have not yet been sent. However, four letters, one paper cutting, one printed copy of the report of the Committee, one partly torn copy of the statement of one Shri Mathura Malanga Thevor, MLA bearing some initials and one full signature purported to be of Shri Thevor, some photographs of witnesses and 407 pages, typed but unauthenticated, purporting to contain statements of some witnesses before the said Committee, were received earlier.

The Ministry of External Affairs have since sent photocopies of the following files.

1. File No. 25/4/NGO – Vol. I
2. File No. 25/4/NGO – Vol. II (LW-KW)
3. File No. 25/4/NGO – Vol. III (LW-Annx)
4. File No. 25/4/NGO – Vol. IV (LW-KW.i)
5. File No. 25/4/NGO – Vol. V (LW-KW I, II & III)
6. File No. 25/13/NGO – 52 (LW-KW)
7. File No. 25/14/NGO – 52
8. File No. 25/15/NGO – 52
9. File No. 25/16/NGO – 53

6(i) On March 23, 2000 the Commission directed the Government of West Bengal to produce all the files relating to Netaji Subhas Chandra Bose which were lying in the custody of the Special Branch, Calcutta Police including file No. 269/45 relating to 'Prisoner/Release – Revised Policy of Government, for the release of Security Prisoners' containing Memo. No. SS 129/SB dated 31st August, 1945 from the Commissioner of Police, Calcutta to H.S.E. Stevens, the then Chief Secretary, Government. of Bengal, Express letter No. 1234 dated 25.8.1945 of Bengal Government and confidential note dated 3.9.1945 of D.R. Hardwick, D.I.G., I.B. In purported compliance of the above direction, the Government of West Bengal sent copies of 64 files along with lists thereof and also filed an affidavit dated July 28, 2000 through Shri Alok Nath Bhattacharyya, Special Secretary to the Government of west Bengal, Home (Political) Department wherein it is stated, inter alia, as follows :

"8/ That the Government of West Bengal caused a thorough search in the offices of Special Branch, Calcutta Police, Intelligence Branch, West Bengal and State Archives; that there is no such file bearing No. 269/45 regarding "Prisoner/Release-Revised Policy of Government for the release of Security Prisoners" in the records of Calcutta Police; that File No. 269/45 (Prisoners/Release-Revised Policy of Government for the release of Security Prisoners) containing Memo. No. SS.129/SB dated 31st August, 1945 from the Commissioner of

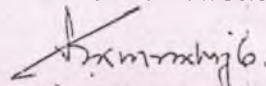
Police, Calcutta to H.S.E. Stevens, the then Chief Secretary Govt. of Bengal, express letter No. 1234 dated 25.8.45 of Bengal Government and Confidential note dated 3.9.45 of D.R. Hardwick, D.I.G., I.B. also do not figure in the Index Book of the Intelligence Branch, West Bengal; that there is no record preserved in the custody of State Archives relating to the disappearance of Netaji Subhas Chandra Bose and other papers connected thereto including copy of Bengal Government's express letter No. 1234 dated 25.8.45

Copies of correspondences of Commissioner of Police, Calcutta, Dy. Inspector General of Police, Intelligence Branch, West Bengal and Director of Archives, Higher Education (State Archives) Deptt. in this connection are annexed herewith as Annexure "A" collectively."

Thereafter, following further direction of the Commission, the Government of West Bengal produced the original Index Books relating to files maintained by the Special and Intelligent Branches of Police. On scrutiny of the said Index Books and the copies of files sent, the Commission directed the Government of West Bengal to produce copies of some more files reference of which was in the Index Books but not sent to the Commission earlier. In compliance with the above direction, the Government of West Bengal sent copies of 13 (thirteen) more files including File No. 269/45 which contained memos and Note referred to hereinbefore.

6(ii) From the above resume of facts, it is manifest that the earlier quoted statements made by Shri Aloknath Bhattacharyya, in his affidavit filed on July 28, 2000 are not at all correct. Since, however, Shri Bhattacharyya claims in his above affidavit that those averments were made on the basis of information received from Shri D.C. Bajpai, Commissioner of Police, Calcutta, and Shri A.K. Sen, Deputy Inspector General of Police, I.B., West Bengal and has, in support thereof, annexed as part of his affidavit the copies of written communications from them in this respect, it is patently clear that the above two/responsible senior Police Officers furnished wrong information for onward communication to this Commission. The Commission therefore calls for the explanation of the above two Police Officers for furnishing such wrong information, by the next date of hearing.

7. Since the observations made by the Commission in Paragraph (e) of its proceedings dated 28.9.2000 have not been given due importance and priority they deserve, the Commission takes serious view of the matter and feels that time is now ripe to consider the question of invoking the powers under the provisions of section 5(4) of the Commission of Inquiry Act, 1952 for recurring non-compliance with the orders/directions of the Commission. In this connection, the attention of the authorities concerned is once more drawn to orders dated June 13, 2000, as quoted in paragraph 3(e) of the proceedings dated September 28, 2000 as also those communicated through various letters sent pursuant to the orders of the Commission.


(M.K. Mukherjee)
Chairman.

CONFIDENTIAL

D.O.F.No.13-38/2000-M.I

भारतीय गणतंत्र की 50वीं वर्षगांठ

संस्कृति विभाग

भारत सरकार

विज्ञान भवन एनेक्सी

नई दिल्ली-110 011

50TH ANNIVERSARY OF INDIAN REPUBLIC

DEPARTMENT OF CULTURE

GOVERNMENT OF INDIA

VIGYAN BHAWAN ANNEXE

NEW DELHI-110 011



CHITRA CHOPRA

Addl. Secretary

Tel.No.3022242

Fax No.3022160

January 1, 2001.

Dear

Please refer to your D.O.letter No.F.DGNM-2/2000 dated September 18, November 20, and December 15, 2000 regarding declassification of records/articles pertaining to Netaji Subhash Chandra Bose and deposited in National Museum.

The Ministry of External Affairs have now agreed that the above records/articles may be declassified in order to facilitate their viewing by the Justice Mukherjee Commission of Inquiry. They also feel that it might be a good idea to invite the Commission to look at the above treasures for which you may get in touch with the Justice Mukherjee Commission to tie up the administrative arrangements. (Copy of their letter enclosed).

Since, this is a sensitive matter, you are hereby requested to keep the Department informed of all the developments and also endorse all copies of your communication with the Commission as well as other Departments/Ministries, in this regard.

Yours sincerely,

(Chitra Chopra)

Dr.R.D.Choudhary,
Director General,
National Museum,
New Delhi.

Copy for information to:-

1. Shri P.K.Sengupta, Secretary, Justice Mukherjee Commission of Inquiry, B Block, 3rd Floor, 11/A, Mirja Galib Street, Calcutta-700087.
2. Shri M.B.Kaushal, Special Secretary, Ministry of Home Affairs, New Delhi.
3. Shri Jayant Prasad, Joint Secretary (AMS & CNV), Ministry of External Affairs, New Delhi.
4. Shri Jarnail Singh, Joint Secretary, PMO

प्र.म.स. (एन.ज.सो.)/PMO (NGO)
सं.सं./Dy. No....15.1.01...
दिनांक/Date....1-1-2001...

Chitra Chopra
(CHITRA CHOPRA)

2mb
3/1/2001
Dr. R.D. Choudhary
US (NGO)
re. put upon
the file
4/1/01
36910/2000
4093/25(30)/01
3/1



CONFIDENTIAL

राष्ट्रीय संग्रहालय
NATIONAL MUSEUM

(201)

Dr.R.D.Choudhury
Director General

D.O.No.F.DGNM-2/2000

Phone: 3018159

January 3, 2001

Dear Mrs. Ranjan,

I am enclosing a copy of the Confidential letter D.O. No.F.13-38/2000-M.1 dated January 1, 2001 received from Smt. Chitra Chopra, Additional Secretary, Department of Culture regarding declassification of records/articles pertaining to Netaji Subhash Chandra Bose and deposited in the National Museum.

In this context, the Ministry of External Affairs have agreed to declassify the above records facilitating their viewing by the Justice Mukherjee Commission of Inquiry.

With regards,

Yours sincerely,

(R.D.Choudhury)

Encl: As above

Mrs. Archana Ranjan
Director
Prime Minister Office
South Block
New Delhi

4/1/ US (NGO) J
4/1/ de prompt file 4/1/

F.NO 16(4)/2000-NGO
VOL I

प्र.सं.का. (एन.बी.ओ.)/PMO (NGO)
क्र. सं./Dy. No... 16/5/2001 ...
दिनांक/Date..... 4-1-2001.....

8 SOPHIA

CONFIDENTIAL

D.O.F.No.13-38/2000-M.1

भारतीय गणतंत्र की 50वीं वर्षगांठ

संस्कृति विभाग

भारत सरकार

विज्ञान भवन एनेक्सी

नई दिल्ली-110 011

50TH ANNIVERSARY OF INDIAN REPUBLIC

DEPARTMENT OF CULTURE

GOVERNMENT OF INDIA

VIGYAN BHAWAN ANNEXE

NEW DELHI-110 011



CHITRA CHOPRA

Addl. Secretary

Tel.No.3022242

Fax No.3022160

January 1, 2001.

Office of DGNM

Sl. No. 43

Dated 3/1/2001

Dear Dr. Choudhary,

Please refer to your D.O. letter No.F.DGNM-2/2000 dated September 18, November 20, and December 15, 2000 regarding declassification of records/articles pertaining to Netaji Subhash Chandra Bose and deposited in National Museum.

The Ministry of External Affairs have now agreed that the above records/articles may be declassified in order to facilitate their viewing by the Justice Mukherjee Commission of Inquiry. They also feel that it might be a good idea to invite the Commission to look at the above treasures for which you may get in touch with the Justice Mukherjee Commission to tie up the administrative arrangements. (Copy of their letter enclosed).

Since, this is a sensitive matter, you are hereby requested to keep the Department informed of all the developments and also endorse all copies of your communication with the Commission as well as other Departments/Ministries, in this regard.

Yours sincerely,

Chitra Chopra
(Chitra Chopra)

Dr.R.D.Choudhary,
Director General,
National Museum,
New Delhi.



8/17

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विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

Jayant Prasad
Joint Secretary (AMS & CNV)

No. 25/4/NGO-Vol.V

December 21, 2000

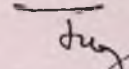
Dear Ms. Chopra,

This is in continuation of my letter of even number dated December 18, 2000 conveying no objection of this Ministry regarding records/articles pertaining to Netaji Subhas Chandra Bose deposited by this Ministry with the National Museum. In the light of our no objection, the articles/records may be shown to the Justice Mukherjee Commission of Inquiry.

A copy of this letter is being endorsed to the Secretary, Justice Mukherjee Commission of Inquiry.

Pl. p.u. on file with warm regards,
ce 22/12
ws-(s)

Yours sincerely,


(Jayant Prasad)

Ms. Chitra Chopra,
Additional Secretary,
Department of Culture,
Vigyan Bhavan Annexe,
New Delhi.

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Calcutta 700 087

Phone:

Chairman -- 216-2765
Secretary -- 216-2767
Officer on
Special Duty -- 216-2765
Office -- 216-2765/6/8

No. JMCI/Meeting-Proceedings(Follow Up)/ Calcutta, dated, the 3rd January' 2001.
48 (Vol.II)/439(7)

From : Shri P.K. Sengupta, WBHJS (Retd.),
Secretary

To : Secretary,
P.M.'s Secretariat,
South Block,
New Delhi- 110001.

Sub : Strict compliance with the orders/
directions contained in the proceedings
dated 22.12.2000 read with the proceeding
dated 23.03.2000, 13.06.2000, 31.08.2000,
28.09.2000 and 23.11.2000, of Justice
Mukherjee Commission of Inquiry.

S i r,

I am sending herewith a copy of the proceedings
dated 22.12.2000 (Sixth) of the Commission containing
its orders and directions for your perusal and compliance
thereof as directed by the Commission.

Copies of the earlier proceedings of the Commission
were duly sent to your office in the past.

Yours faithfully,

(P.K. Sengupta)
Secretary

Encl. As stated above.

we should keep
a watch on issues
relating to us

म.सं.का. (एन.जी.ओ.)/PMO (NGO)
क्र.सं./Dy. No. 84/6/2001
दिनांक/Date 8-1-2001

85/83(A) 2001
5/1

ECY. TO P.M.

Y. No. 87-6

DATE 5/1/01

5010/DIR/CAC

one copy may be
given to US (NGO)

Mr. Sen.

8/1

US (NGO)

e-mail : jmcinsecb@cal3.vsnl.net.in

JUSTICE M.K. MUKHERJEE COMMISSION OF INQUIRY

Proceedings dated 22.12.2000 (Sixth)

Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

A. EXAMINATION OF WITNESSES

December 22, 2000 I. Dr. Purabi Roy (C.W.10), who was examined in part on the last date of hearing (November 23, 2000), has been examined further. In course of her examination she has produced 55 documents in 26 folders along with a list thereof and those documents have been marked Z, Z_(a), Z₁, Z₂ to Z₁₆, Z_{16(a)}, Z₁₇ to Z₂₆, Z_{26(a)}, Z₂₇, Z_{27(a)}, Z₂₈ to Z₄₇ and Z₄₈ (three documents collectively) for identification. On conclusion of her examination Shri Jayanta Roy has been examined on oath (C.W.11). Thereafter, Shri V.P. Bhatia, an Under Secretary to the Government of India, Ministry of Home Affairs has been examined (C.W.12). In course of his examination, he has identified the documents referred to in paragraph 3(b)(i) of the order dated September 28, 2000, (papers relating to the Khosla Commission of Inquiry) and proved that those documents have been produced from proper custody. The other witness, Smt. Prava Jagannathan, to whom summons was sent by registered post at the address available on record, is neither present nor has the A/D Card been received. On receipt of the same, appropriate orders will be passed. Till her present correct address is made available, the question of resummoning her does not arise.

II. Shri Samar Guha, who has been cited as a witness in more than one affidavit filed before the Commission, is now seriously ill and bed-ridden. He has, however, expressed his willingness to be examined as a witness at his residence. Accordingly, his examination on commission has been fixed on January 10, 2001 at 1.00 P.M. at his residence at 8/2, Central Park, Jadavpur, Calcutta 700 032. The parties/Advocates present, have been intimated about the venue, date and time of his examination.

III. Mr. Keshab Bhattacharya, learned Counsel appearing for the deponents in JMCI/19/2000, filed an application on December 21, 2000 alleging that certain questions put by him to Shri Suman Chattopadhyay (C.W.6), and the answers given by the latter thereto have not been recorded; and he has, accordingly, prayed for incorporating those questions and answers in the deposition of Shri Chattopadhyay. While it is true that Mr. Bhattacharya did put some questions to Shri Chattopadhyay and the latter gave answers, both the questions and the answers were disallowed as irrelevant. The application filed by Mr. Bhattacharya is, therefore, rejected.

B. RE: HEARING ON THE QUESTION OF PRIVILEGE

IV. After completion of the examination of the witnesses present, Mr. Tarakeswar Pal, learned Counsel appearing for the Government of India, starts making his submission in support of the two applications filed by Shri Kamal Pande, Secretary to the Government of India, Ministry of Home Affairs and Shri Jarnail Singh, Joint Secretary in the Prime Minister's Office, claiming privilege in respect of the contents of the documents referred to in their respective applications. On the prayer of Mr. Pal, and of the other learned Counsel/parties, further hearing on the above question is adjourned till the next sitting of the Commission.

V. In compliance with the order as contained in paragraph 6(ii) of the Proceedings dated November 23, 2000, Shri D.C. Vajpai, Commissioner of Police, Calcutta and Shri A.K. Sen Deputy Inspector General of Police, I.B., West Bengal (since retired), have submitted their explanations. Considering their explanations it is felt that no further action need be taken in the matter.

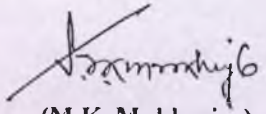
207

C. OTHER MATTERS/ORDERS

✓
VI. The attention of the respective Ministries/Offices is once more drawn to the directions contained in paras B.1, B.4, B.5 and B.7 of the order dated November 23, 2000. Last chance is given to the respective Ministries/offices to comply with the same by January 31, 2001, failing which, appropriate legal action will be taken against the officers concerned for wilful non-compliance with the said orders/directions.

D. NEXT HEARING

VII. The next hearing of the Commission will be held on January 17, 2001 at 11.00 A.M. in the Seminar Hall of Mahajati Sadan, Annexe Building, 166, Chittaranjan Avenue, Calcutta - 700 007 which shall be confined to the issue of privilege claimed.


(M.K. Mukherjee)
Chairman.

No. I-12014/13/2000-IS (D.III)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi, the 11th January 2001

OFFICE MEMORANDUM

Sub:- Justice Mukherjee Commission of Inquiry- regarding.

The undersigned is directed to say that in the proceedings in its sitting on 28.09.2000, the Commission inter alia directed production of the following documents :-

- (i) A xerox copy of the letter said to be sent by General Chiang-kai-Sheikh to Pandit Jawaharlal Nehru about an inquiry reportedly made by the Government of Nationalist China at Taipei regarding the alleged plane-crash involving Netaji alongwith a xerox copy of the said inquiry Report; and
- (ii) A xerox copy of the report dated 31.12.1945 of Shri B.C.Chakravarty (Witness No. 168 before Justice Khosla Commission of Inquiry) on alleged air-crash and alleged death of Netaji Subhas Chandra Bose which was counter-signed by Col. Stevenson and sent to the CSDIC as referred to in the published report of the Commission.

2. We have made efforts to search these documents in the records of this Ministry but could not lay our hands on any such document. We are required to file a supplementary affidavit relating to these two documents before the Commission. Before any committal position is stated in the supplementary affidavit, it is requested that efforts may please be made in the Prime Minister's Office to see if letter/documents mentioned above are available in that Office.

3. Since the supplementary affidavit is to be filed before the next sitting of the Commission on 17.01.2001, it is requested that the result of the efforts to locate these two documents in the Prime Minister's Office may please be communicated to this Ministry at the earliest.

(V.P.BHATIA)

Under Secretary to the Govt. of India

Prime Minister's Office
Smt. Archana Ranjan, Director
South Block

Pl check

12/1

US / Pol

Pl try to locate the documents no (i) & (ii)
URGENT

Mr Sen

12.1.01

THE NEW YORK PUBLIC LIBRARY
ASTOR LENOX TILDEN FOUNDATION
171 FIFTH AVENUE
NEW YORK, N. Y.

THE NEW YORK PUBLIC LIBRARY
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171 FIFTH AVENUE
NEW YORK, N. Y.

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ASTOR LENOX TILDEN FOUNDATION
171 FIFTH AVENUE
NEW YORK, N. Y.

209
MOST IMMEDIATE

No.G.16(4)/2000-NGO

PRIME MINISTER'S OFFICE

SOUTH BLOCK
NEW DELHI-110011

DATED:16.01.2001

To

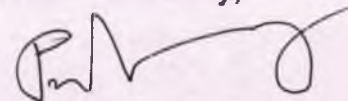
The Home Secretary,
Government of West Bengal
Sachivalaya, Writers' Building,
KOLKATTA.

Subject:Justice Mukherjee Commission of Inquiry appointed to enquire
into the alleged disappearance of Netaji Subhash Chandra Bose-
Deputation of an officer to Calcutta in connection with-

Sir,

I am directed to say that Shri P.S. Lally, Under Secretary in this Office has been deputed to go to Calcutta in connection with filling of an Affidavit before the Commission. He is going to Calcutta today (16.01.2001) by IC : 264 reaching Calcutta Airport at 2055 hrs. You are requested to please issue suitable instructions for his reception at the Airport and for transport/accommodation during his stay at Calcutta.

Yours faithfully,



(P.K. Roy)
Under Secretary
Tel.No.3018130

KW: Justice Mukherjee Commission of Inquiry

Confidential
Most Immediate

210

No.1/23/1/2000-Cab.
Government of India (Bharat Sarkar)
Cabinet Secretariat (Mantrimandal Sachivalya)

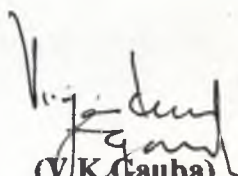
New Delhi, the 20th December, 2000.

Subject: Supply of the copy of the Government of India (Allocation of Business) Rules, 1961 and Government of India (Transaction of Business) Rules, 1961 and other instructions to PMO in connection of Justice Mukherjee Commission of Inquiry enquiring alleged disappearance of Netaji Subhas Chandra Bose.

The undersigned is directed to refer to Prime Minister's Office d.o. letter No.G-16(4)/2000-NGO dated 15/18.12.2000 on the captioned subject to forward herewith following documents for reference purpose in the Prime Minister's Office:-

- (i) Government of India (Allocation of Business) Rules, 1961 alongwith amendments issued upto series No.253 dated 17.11.2000.
- (ii) Government of India (Transaction of Business) Rules, 1961 together with its amendments issued upto 18.2.2000 (Copy No.2633).
- (iii) O.M.NO.12/1/CF/69 dated 28.7.1969 pertaining to production in a court of law of notes, summaries, memoranda etc. placed before the Cabinet or its Committee for consideration, and the proceeding of the Cabinet or its Committees.
- (iv) O.M.No.12/1/CF-69 dated 29.10.1969 pertaining to production before a Committee of Parliament of notes, summaries, memoranda etc. for the Cabinet or its Committees and the proceedings of the Cabinet or its Committees.
- (v) Memo No.-74/1/2/72-CF dated 2.6.1973 pertaining to production in a Court of Law of the Government of India (Transaction of Business) Rules, 1961.
- (vi) O.M.No.11/4/1/75-CF dated 3.11.1976 pertaining to production before the Parliamentary Committee of the proceedings/information relying on the proceedings of the Committee of Secretaries.

At 21/12/2000
US/NGO
He. keep these papers safely
21/12


(V.K. Gauba)
Deputy Secretary
Tele:3012835.

Prime Minister's Office,
(Ms. Archana Ranjan, Director),
New Delhi.

प्र.म.का. (एन.जी.ओ.)/PMO (NGO)
क्र.सं./Dy. No. 858/5/2000
दिनांक/Date 21/12/2000

334/Dir (A) 5
21/12/2000

SECRET

98

Copy No.

No. 12/1/CP/69
GOVERNMENT OF INDIA
CABINET SECRETARIAT
(Department of Cabinet Affairs)

New Delhi, the 28th July, 1969
6th Shrawana, 1891.

OFFICE MEMORANDUM

Subject:- Production in a court of law of notes, summaries, memoranda etc. placed before the Cabinet or its Committees for consideration, and the proceedings of the Cabinet or its Committees.

References are frequently received in the Cabinet secretariat from various Ministries, seeking concurrence of the Cabinet Secretariat to the production in a court of law, of notes, summaries, memoranda etc. which have been considered by the Cabinet or one of its Committees. The position regarding the production of such documents in a court of law has been examined carefully and the following instructions are issued in consultation with the Ministry of Law for general guidance.

2. As the Ministry of Home Affairs etc. are aware, all notes, summaries and memoranda etc. for the Cabinet or its Committees, and the proceedings of the Cabinet or its Committees, are treated as secret documents. The notes, summaries etc. are really in the nature of briefs setting out the pros and cons of the issues discussed, to enable the Cabinet or one of its Committees to come to a decision on those issues. Similarly, the proceedings form a record of discussion or decisions taken by the Cabinet or its Committees. Obviously, if these documents were to become public, complications and even embarrassment might ensue and in some cases the disclosure might even be prejudicial to the security of the state.

3. It has been noted that generally the need for the production of such documents before a court of law has arisen because either quotations have been made from such a document or a reference has been made to such a document in the affidavit filed before the court on behalf of the government.

4. After careful consideration it has been decided that notes, summaries memoranda etc. for the Cabinet or its Committees, and the proceedings should not be produced in a court of law. Where an order is made by the court for the production of any of these documents, privilege should be claimed under sections 123 and 124 of the Indian Evidence Act, 1872. In this connection attention is invited to the Ministry of Law's O.M.No. P.37(1)/62-J

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of 23rd June 1966, containing detailed instructions regarding the procedure to be followed on receipt of a summons for the production of documents and the manner of claiming privilege. Care will also have to be taken to see that no reference to these notes, summaries, memoranda, proceedings etc. is made, or extract or quotations given from them in any affidavit, petitions and pleadings filed or submissions made before the courts on behalf of the government.

In some cases ministries may find it necessary, for the proper presentation of the government's case before a court of law, to refer to some material which may have found place in the documents referred to above. Usually, this material would also be available on the files of the ministries or in the government orders issued pursuant to the decision of the cabinet or a committee of the Cabinet. In case it is necessary to refer to such material, ~~there~~ there would be no objection to a gist or a paraphrased version being given in the government affidavit, which may be settled in a consultation with the Law Ministry, provided that no reference is made that the material could, if necessary, be proved from documents other than those which were placed before the Cabinet or its Committees for consideration, or the proceedings of the Cabinet or its Committees.

5. If, in any extraordinary case, a ministry feels that a reference to or production of a Cabinet note, summary, memorandum or proceedings, is inescapable in a submission or affidavit to be made before a court in the government interest, prior concurrence of the Cabinet Secretariat should be obtained.

Sd/-
(P.K. Caprihan)
Deputy Secretary to the Cabinet.

To

All Ministries/Departments of Government of India.
(Secretaries by name)

SECRET

213

SECRET

Copy No. 2

No. 12/1/CF-69 /
CABINET SECRETARIAT
(Department of Cabinet Affairs)

New Delhi, the 29th October, 1949.
7 Kartika, 1891.

OFFICE MEMORANDUM

Subject:- Production before a Committee of Parliament of notes, summaries, memoranda etc. for the Cabinet or its Committees and the proceedings of the Cabinet or its Committees.

A question has been raised whether a note for the Cabinet which was considered by the Cabinet some years ago may be supplied to a Committee of the Parliament. The position regarding the production of Cabinet documents (including notes, summaries, memoranda, proceedings etc.) has been examined in detail. The Ministry of Law, who were consulted in the matter, have advised as under:-

"The point for consideration is whether a privilege can be claimed in respect of a Cabinet paper when called for by a Parliamentary Committee.

The Parliament and its Committees have a power to require attendance of persons and production of documents considered necessary for the discharge of its duties. This is one of the privileges of Parliament provided for in clause 3 of Article 105 of the Constitution. This privilege, however, is subject to the rules and standing orders regulating the procedure of Parliament. Rule 270 of the Lok Sabha Rules provides that "Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or the interest of the State". The expression "interest of the State" or "public interest" is held to include matters which affect the proper functioning of the Government and its agencies. The Cabinet system of Government obtaining under the Constitution can work successfully only if its proceedings are secret. If they are disclosed, it would be impossible for the individual Ministers to express their views with frankness and any disclosure of division of opinion should affect the strength and effectiveness of the Government decisions.

The papers submitted to the Cabinet by departments are, therefore, universally accepted as secret and confidential and their disclosure against public interest. In this connection, reference is made to the provisions of Sections 123 and 124 of the Evidence Act relating to the same subject. All State papers and confidential communications are entitled to privilege from disclosure even to the courts. The privileges of

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25 copies.

SECRET

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Parliament stand on the same footing. In *Conway Vs. Rimmer*, the House of Lords reviewed the entire law on the subject and observed: "There are many cases in which documents by their nature fall into a class which requires protection such as Cabinet papers, Foreign Office despatches, the security of the State, high level inter-departmental minutes and correspondence and documents pertaining to the general administration of the Naval, Military and Air Force Services. Nearly always such documents would be the subject of privilege by reason of the contents..... The reason for this privilege is that it would be quite wrong and entirely inimical to the proper functioning of the public service if the public were to learn all these high level communications, however innocent of prejudice to the State the actual contents of any particular document might be." (1968) All England Law Reports page 8747. The same principle has been applied by our Supreme Court in *State of Punjab Vs. S.S. Singh* (1961 Supreme Court Appeals 4).

In view of this position, the Government of the office can decline to produce any papers or any departmental proposal submitted to the Cabinet for its consideration."

2. The advice given by the Ministry of Law is circulated to all Ministries for information and guidance. They are requested to take care that no reference is made to any Cabinet papers when written replies or oral evidence is given before a Parliamentary Committee. There is, however, no objection to using a gist or paraphrased version of the material contained in these documents provided that Cabinet document itself is not referred to, and provided that the material can be borne out from other records of the Ministry/Department itself and the Department does not consider the production of that record as prejudicial to the safety or interest of the state.

3. It is further requested that the contents of this Memorandum may be treated as an administrative direction and its contents should not be quoted in references to the Committees of Parliament or in the meetings of the Parliamentary Committees, as a reference to it is likely to attract avoidable criticism.

Sd/-

(P.P. Caprihan)
Deputy Secretary to the Cabinet

To

All Ministries/Departments
of the Government of India.

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25 copies.

SECRET

161-
CONFIDENTIAL

5-215
ANNEXURE II

No. 74/1/2/72-CF
GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)
Department of Cabinet Affairs (Mantrimandal Karya Vibhag)

New Delhi, 2 June, 1973.
12 Jyaishta, 1895.

Subject:- Production in a Court of Law of the
Government of India (Transaction of
Business) Rules, 1961.

Requests are received from time to time from Ministries and Departments of the Government of India for permission to produce the Government of India (Transaction of Business) Rules before a court of law either suo moto or in response to a demand made by the court or another party. Since these Rules are marked "Confidential" and "For official use only", the Ministries/Departments concerned have been invariably advised not to produce them before a court of law. The rationale of this advice is explained below.

2. The Government of India (Transaction of Business) Rules, 1961, were promulgated by the President under Article 77(3) of the Constitution for the more convenient transaction of Government business. These Rules prescribe steps which must be taken before the 'decision of Government' is reached. In their very nature, these Rules are for internal guidance only, and must be kept confidential. This was emphasized in O.M.No. 74/7/CF-61(2) dated 18 January, 1961, with which copies of these Rules were forwarded to the Ministries. So far as the citizen is concerned, Ministers are collectively and individually responsible for all decisions of the Government; he is not entitled to question whether all the prescribed steps were in fact taken before a decision was reached. The position is succinctly summed up in the undernoted note which was recorded by the then Cabinet Secretary (Shri B. Sivaraman) in June, 1969:-

"The Transaction of Business Rules is an internal matter providing checks and balances and methods for carrying out Government's work. Once this is publicized, anybody is free to question any act of Government on the ground that some rule or other in these Transaction of Business Rules has not been followed. It then becomes a justiciable matter in the details of Government's work. This is the reason why we have always treated the Transaction of Business Rules as an internal matter and not for publication. This position cannot be deviated from."

In view of the consideration mentioned above, it is necessary to ensure that these Rules are not produced

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in a court of law. If a court of law demands their production either on a reference from the plaintiff or on its own, the administrative Ministry should claim privilege under Sections 123 and 124 of the Indian Evidence Act, 1872.

No reference to these Rules should also be made in affidavits filed in courts on behalf of the Government.

A reference to a part of the text of the Transaction of Business Rules has been made in an unreported judgement of the Calcutta High Court and also in a judgement of the Supreme Court, entitled Fonseca Private Ltd. v. L.C. Gupta (AIR 1973 Supreme Court p.563) through inadvertent reference thereto in an affidavit filed by a Ministry. Privilege should nonetheless continue to be claimed for the said Rules as otherwise even those portions of the Rules which have so far not been disclosed to the courts would have to be produced before them. The fact of production of a part of the Rules in a court, whatever may be the reasons, does not affect the rationale for treating them as confidential.

3. A question arising for consideration in this context is how the validity of an order or the competence of the individual executing it should be proved without reference to the Transaction of Business Rules, if these are questioned in a court of law. The advice of the Ministry of Law is that the Authentication Rules framed under Article 77(2) of the Constitution vest in specified authorities the power to sign an order or an instrument on behalf of the President and that if the requirements of these rules are satisfied in all cases in which the orders of the Central Government have to be communicated, it will not be open to anyone to question their validity or the competence of the individual signing them. For ease of reference, sub-clause (2) of Article 77 of the Constitution is reproduced below:-

"Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President."

4. If an order is properly authenticated as required under the Authentication Rules in the manner required by the Constitution, the courts would not go into the question as to the competence of the person who actually passes the order except where the President is required to pass the order personally. Even where an order has not been properly authenticated, it would still be open to the Ministry or Department concerned to prove by affidavit evidence that the decision in question has in fact been taken by a person competent to do so. All Ministries/Departments are advised to ensure that orders allocating

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specific business to particular officers are made and kept up-to-date and also properly authenticated. This is particularly important in cases affecting the general public, where power of decision has been conferred on the Central Government by a statute or statutory rule and these powers are to be exercised by designated officers as the Central Government, e.g. the powers of revision under the Customs Act, the Central Excises and Salt Act, and the Mineral Concessions Rules.

Sd/- R.N. Kalia
Deputy Secretary to the Cabinet.

To

All Ministries/Departments of the Government of India (Secretaries/Special Secretaries/Additional Secretaries, etc.) by name.

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45 copies.

SM 69
SECRET

92
COPY NO. 92

No. 11/4/1/75-CF
GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)
Department of Cabinet Affairs (Mantrimandal Karya Vibhag)

New Delhi,

3 November, 1976.
12 Kartika, 1898 (S)

OFFICE MEMORANDUM

Subject:- Production before the Parliamentary Committee of the proceedings/information relvinq on the proceedings of the Committee of Secretaries.

The undersigned is directed to say that the question as to whether the proceedings of the Committee of Secretaries presided over by the Cabinet Secretary should not, like the proceedings of the Cabinet, be treated as classified documents irrespective of the nature of their contents has been examined in consultation with the Ministry of Law. The advice of the Committee of Secretaries on Internal Affairs has also been obtained. The conclusion reached is that as these Committees function as an adjunct to the Cabinet system, their proceedings should also be treated as classified irrespective of whether their contents merit a security classification or not. As a corollary, no papers connected with these Committees should be shown to Parliamentary Committees or courts of law.

2. The rationale of the above instructions is contained in the detailed note attached hereto.

forwards

(R.M. Approval)
Joint Secretary to the Cabinet.

To

All Secretaries/Special Secretaries/Additional Secretaries to the Government of India.

JPS

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CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)
Department of Cabinet Affairs (Mantrimendel Karya Vibhag)

Subject:- Production before the Parliamentary Committees of the proceedings/information relying on the proceedings of the Committee of Secretaries.

The Rules of Procedure in regard to the proceedings of the Cabinet provide that all Cabinet papers shall be security graded 'secret' or 'top secret'. It follows, therefore, that such papers have to be given either of the two security gradings, irrespective of whether the contents merit a security grading or not.

The question whether papers relating to the Committees of Secretaries presided over by the Cabinet Secretary can be treated on the same footing as Cabinet papers has been examined in consultation with the Ministry of Law.

The Ministry of Law has advised that Government has absolute discretion in the matter of deciding whether or not disclosure would be prejudicial to the interest of the State. As a corollary, even a matter which might on surface appear to be innocuous could be so classified by Government. The rationale of this view is that officials recording a note or participating in a discussion must have complete freedom to express their viewpoint uninhibited by any fear that these might be disclosed and become the subject matter of controversy or debate. It follows, therefore, that subject to Government being satisfied that disclosure would be prejudicial to the interests of the State, a request for the production of a document to a Parliamentary Committee or Court of Law can be negatived. An important implication of this advice however is that Government must apply its mind in each individual case before making a determination that disclosure would be prejudicial to the interest of the State. The further question hence put to the Ministry of Law in this context was whether the proceedings of an inter-Ministerial meeting presided over by the Cabinet Secretary could as a "class" be deemed to fall in the category of documents the disclosure of which could be prejudicial to public interest. The broad justification for treating them so, it was explained, was that the Cabinet Secretary acts on behalf of the Council of Ministers even when he does not act on a specific direction from it; also that the Committees of Secretaries presided over by him advise and assist the Cabinet.

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In response to a subsequent query from the Ministry of Law, it was clarified that the paper considered by these Committees concern themselves with one or more of the following types of problems:-

- (a) Problems on which advice is sought by the concerned Ministries before making a submission to the Cabinet.
- (b) Problems which are committed to the Committees by the Cabinet or its Committees.
- (c) Problems impinging on the work of two or more Ministries in regard to which there is a difference of view and the advice of the Committee of Secretaries is needed for a mutually acceptable solution; and
- (d) Problems which are complex in nature on which a view needs to be taken on alternative policy options having regard to the pros and cons of each.

It was also pointed out that free and frank expression of views in such papers and the subsequent discussion in the Committees would be seriously inhibited if privilege could not be claimed for their contents and the contents of the minutes of the meeting. Based on these clarifications, the Ministry of Law has since confirmed that the minutes of the Committees of Secretaries constitute high-level inter-departmental minutes which qualify for privilege as 'class' documents like Cabinet papers.

JPS

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SECRET

(222)

No.915/11/C/2/2000-Pol(Vol.I)
PRIME MINISTER'S OFFICE

**SOUTH BLOCK
NEW DELHI-110 011
Dated: 16.1.2000**

To

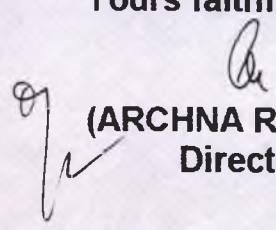
**Shri Tarakeshwar Pal,
Senior Central Government Counsel,
Bar Association Room No.5, High Court Kolkatta,
Kolkatta.**

**Sub:- Filing of Supplementary Affidavits before Justice
Mukherjee Commission of Inquiry appointed to enquire
into the alleged disappearance of Netaji Subhash
Chandra Bose.**

Sir,

I am directed to enclose herewith a Supplementary Affidavit, duly signed by Shri N.K. Singh, Secretary to PM claiming privilege in respect of the documents in possession of the Prime Minister's Office and in respect of the documents for which the Ministry of Home Affairs have already claimed privilege. This is with reference to the discussions you had with the undersigned and Shri P.S. Lally, Under Secretary in the PMO in the 1st week of January, 2001. You may like to take further necessary action in the matter, at your end.

Yours faithfully,


(ARCHNA RANJAN)
Director

*Recd.
Jammwal
17.1.2001*

*original of
returned
to Poll. Section.
17/1/01*

BEFORE THE HONOURABLE JUSTICE MUKHERJEE
COMMISSION OF INQUIRY AT CALCUTTA

IN THE MATTER OF COMPLIANCE WITH THE
ORDERS/DIRECTIONS OF THE COMMISSION AS PASSED IN
THEIR PROCEEDINGS HELD FROM TIME TO TIME AT
CALCUTTA.

SUPPLEMENTARY AFFIDAVIT

I, Nand Kishore Singh, son of late Shri T.P.Singh, working as
Secretary in the Prime Minister's Office, do solemnly affirm and state
as follows:-

1. That (as already stated in the Affidavit dated 29.11.2000 signed
by Shri Jarnail Singh, Joint Secretary in this Office and filed with
Commission on 30.11.2000) with regard to the documents which had
originated from the Ministry of Home Affairs, that Ministry is of the
view that the documents listed in Annexure-I dealing with the
following issues may be continued to be classified:

- a) Controversies regarding Netaji's death and bringing
his ashes to India from Japan;
- b) Identity of Mrs. Anita Pfaff, daughter of Netaji Subhash
Chandra Bose.

Consequently the notes portion dealing with these classified
documents available on PMO files would also continue to be treated
as classified (Annexure 1-A). In view of the advice of Ministry of
Home Affairs. I, the Deponent as Secretary in the Prime Minister's



Office dealing with the subject matter, am in control of these records and am filing the present Affidavit accordingly. I am filing the present affidavit claiming privilege, under Sections 123 & 124 of the Evidence Act, in respect of the records as mentioned in Annexures I & IA to this Affidavit. I am claiming privilege in the following circumstances:-

2) The records listed in Annexure I & IA which have been ordered to be produced by the Hon'ble Commission are unpublished official record relating to affairs of State and contain communications made to public officers in official confidence. The disclosure of the records would cause injury to the public interest. As such, they are protected by Sections 123 and 124 of the Evidence Act.

3) I submit that the records ordered to be produced also belong to a class of documents which it is the practice to keep secret for ensuring the proper functioning of the public service.

4) I have carefully examined the question as to whether the disclosure of the records would cause injury to public interest, including India's relations with some friendly foreign countries and am bonafide satisfied that their disclosure would cause injury to public interest, and that public interest would also suffer thereby.

5. In the circumstances, I withhold permission to produce the said records or to disclose their contents or to give any evidence derived therefrom, and claim privilege under Sections 123 and 124 of the Evidence Act, in respect of the aforesaid papers (listed in Annexures I & IA).



6. However, I submit that I have no objection to the records in respect of which privilege has been claimed being produced for perusal by the Hon'ble Commission for satisfying itself about the bonafides and genuineness of the pleas of privilege.

N.K. Singh 16.1.01
DEPONENT

VERIFICATION

I, Nand Kishore Singh, declare and affirm that what is stated above is true to my knowledge. No part of this Affidavit is false and nothing material has been concealed.

Verified at New Delhi, on 16.01.2001.

N K Singh 16.1.01.
DEPONENT



Solemnly Affirmed/ Sworn Before Me

NOTARY PUBLIC, NEW DELHI

16 JAN 2001

R Sharma

I identify the deponent / Executant
who has signed in my presence



R Sharma (RAJESH SHARMA)
PA, PMD IF No. 216976

ANNEXURE -I

✓ 1. File No. G-16(3)/95-NGO

Sl. No. 17 pages 20-21/c of the file No. G-16(3)/95-NGO-MHA's D.O. No. L12014/27/93-ISD.III dated Nil from Sh. S.B. Chavan, Home Minister to Sh. P.V. Narasimha Rao, Prime Minister regarding mortal remains of Netaji Subhash Chandra Bose to be brought from Tokyo to India.

✓ 2. File No. G-12(18)/94-NGO

Sl. No. 36 pages 4-5/c of the file No. G12(18)/94-NGO -MHA's U.O. No. L12014/27/93-IS(D.III) dated 9.8.94. from Sh. K. Padmanabhaiah, Home Secretary to Sh. A.N. Varma, Principal Secretary to PM on controversy regarding Netaji's death and bringing his ashes to India from Japan.

✓ 3. File No. 870/11 P-10/93-Pol Vol.II

Sl. No. 1/c Page 1/c of the file- No. 870/11 P-10/93-Pol Vol.II- MHA's U.O. No. L12014/27/93-IS.D.III dated 20.4.1994 from Sh. N.N. Vohra, Home Secretary to Sh. A.N. Varma, Principal Secretary to PM - Controversy regarding Netaji's death and bringing his ashes to India from Japan.

✓ 4. File No. 2(67)/78-PM

Sl. No. 3/C Page 4-6/c of the file No. 2(67)/78-PM MHA U.O. No. 25022/109/79-F.VII dated 6.2.1980 (with enclosures) from Shri Vinay Vasishtha, Under Secretary, Ministry of Home Affairs to Sh. Prakash Shah, Joint Secretary, PMO regarding establishment of the identity of Ms. Anita Pfaff daughter of Netaji Subhash Chandra Bose.



ANNEXURE -IA.

1. File No. G-16(3)/95-NGO

Page Nos. 5&6 of Note dated 21.11.1995 of Ms. Sujata Mehta, Director, PMO & notings thereon regarding proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India.

2. File No. G-12(18)/94-NGO

Page Nos 1 to 4 (Notes portion) of Notes dated 26.8.1994 & 2.9.1994 of Ms. Sujata Mehta, Director, PMO and notings thereon about controversy regarding Netaji's death and bringing his ashes to India from Japan.

21/16 ✓ 3. File No. 2(67)/78-PM

Page Nos. 2 to 3 of Notes portion regarding doubts about the facts relating to wife and daughter of Netaji Subhash Chandra Bose.

✓ 4. File No. 870/11/P/10/93-Pol.Vol.II

Page Nos. 2 to 3 of Notes portion relating to controversy regarding Netaji's death and bringing his ashes to India from Japan.



CONFIDENTIAL

Serial No. _____

Justice Mukherjee Commission of Inquiry
For Inquiry into the alleged disappearance of
Netaji Subhas Chandra Bose
'B' Block, (Third Floor)
11A, Mirza Ghalib Street, Calcutta-700087.

Received 'Secret' File No. 2(67)/78-PM (Xerox
copies of Notes/Correspondence) of the Prime Minister's
office, Government of India, New Delhi, from Justice
M.K. Mukherjee Commission of Inquiry.

Please return it immediately to

Shri P.K. Sengupta,
Secretary,
M.K. Mukherjee Commission of Inquiry,
11-A, Mirza Ghalib Street,
Calcutta-700087.

Signature/Name: *S. S. Ahlawat*
Seal: S.S. AHLAWAT
Designation/State: *US (NAG)*
Date: 13-2-2001

NCDO
+
Pol.
The Secret File
No. 2(67)/78-PM
(Xerox copies of Notes/Corr)
of PMO, referred to above
has been sent to Pol. Section
under acknowledgment
in Perm Book on 13-02-2001
B
13/02/2001

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(Inserting additional lines in para three)
 died in 1945 of crash injuries and shock: Report
 H B Rao

London, Jan 28 (PTI) Controversy over the death of Netaji
 Subhas Chandra Bose has finally "ended" with a Japanese doctor
 who attended to him certifying that the veteran freedom
 fighter and chief of Indian National Army (INA) died on August
 18, 1945, a few hours after being injured in a plane crash.

The first hand account of how Bose was brought in a
 serious condition to a military hospital in Taihoku (Formosa,
 Japan), how he breathed his last and where his ashes were kept
 were narrated by Dr Tameyoshi Yoshimi.

Yoshimi, captain (medical) of Imperial Japanese Army, was
 interviewed by British intelligence in Hong Kong after the
 Japanese surrender. PTI has now acquired a transcript of the
 interview from the British public records office in London as
 a de-classified document.

Narrating the event in his interview, Yoshimi who is
 still alive and resides in Northern Japan, said Bose died of
 "extensive burns and shock" despite best medical treatment.

According to the transcript of the interview, Yoshimi
 said, "In August, 1945, I was the Senior officer at NANMON
 Military Hospital, Taihoku, Formosa. At about 1700 hrs on 18th
 of August, 1945, a truck driven up before the hospital
 contained several men who had been injured in an aeroplane
 crash. Two of the men were Indians, and the remainder, about
 five or six in number were Japanese.

"One of the Japanese, a Staff Officer with the rank of
 Lt-Colonel whose name I cannot properly recall, but believe
 was Ishii informed me that one of the Indians, pointing him
 out, was Chandra Bose and that I was not to spare myself and
 must give him the very best of treatment," Yoshimi said.

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NNNN

प्र.मं.वा. (एन.जी.ओ.)/PMO (NCO)

उ.सं.०/Dy. No. P.S./G/2.001

13/2/2001

US(NGO) 6/2
 2001 (RP) 6/2

V. Shy
 5/2
 55(5)

Top Secret

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Calcutta 700 087

Phone:

Chairman - 216-2835
Secretary - 216-2767
Officer on
Special Duty - 216-2765
Office - 216-2766/68

No. IMCI/ Meeting-Proceedings (Follow Up)/ Calcutta, dated, the 31.01.2001.
48 (Vol.II)/494.

From : Shri P.K. Sengupta, WBHJS (Retd.),
Secretary

To : The Secretary,
Prime Minister's Office,
South Block,
New Delhi-110001.

S i r,

I am directed to send herewith a xerox copy of the Proceedings dated 17.01.2001 (Seventh) of the Commission and of its order dated 25.01.2001 for taking necessary action as desired by the Commission.

I am further directed to send back by a special messenger the file No.2(67)78 PM (Subject: Widow and daughter of Shri Subhas Chandra Bose - Misc. Correspondence with and about) containing xerox copies of some documents relating to Mrs. Anita Puff, daughter of Netaji Subhas Chandra Bose, in a sealed cover as the same have been considered by this Commission to be not relevant to the terms of the reference of the Commission.

The said sealed cover as also xerox copies of the said proceedings and order will be made over at your office by Shri Ajoy Kumar De, Private Secretary of this Commission.

Yours faithfully,

(P. K. Sengupta)
Secretary

Encl : Sealed Cover as stated

SECY. TO P.M.

OY. No. 581-G

DATE 13/2/01

Fax : 0091-033-216-2765

e-mail : jmcinsecb@cal3.vsnl.net.in

PMO (NGO)

Dy. No. 22/15/2001

Date 16/2/2001

Now MHA has to file
affidavit. We
donot have to do
it. It is O.K.

13/2/2001
Good work 14/2
US (NGO) 14/2
US (Pol) 14/2

one copy of the
proceedings may
be given to
this sec.
us (NGO) 14/2
4673/15/19
13/2

90/DIR(A)/G
14/2

Proceedings dt. 17/1/2001 (Seventh)
and the order dt. 25/1/2001
A copy of the order is given
to US (Pol) 20/2/01 JS(A)/14/2

12.2
13.2.2001
JS(A)

- 355 -
231

JUSTICE M.K. MUKHERJEE COMMISSION OF INQUIRY

Proceedings dated 17.01.2001 (Seventh)

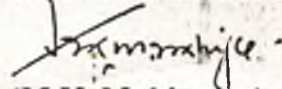
Held at the Seminar Hall, Annexe Building, Mahajati Sadan,
166, Chittaranjan Avenue, Calcutta 700 007

Proceedings

17th January 2001

In terms of the order passed in the last sitting of the Commission on 22.12.2000, the two applications (filed through affidavits) by Shri Kamal Pande, Secretary to the Government of India, Ministry of Home Affairs, and Shri Jarnail Singh, a Joint Secretary in the Prime Minister's Office, claiming privilege in respect of the contents of the documents referred to in their respective applications have been taken up for further hearing.

At the commencement of the hearing Mr. Paul, has submitted that lest the Commission holds that Shri Jarnail Singh being a Joint Secretary is not competent to claim privilege in view of the provisions of Sections 123 of the Evidence Act, he may be permitted to file a supplementary affidavit affirmed by Shri N.K. Singh, Secretary in the Prime Minister's office fully supporting the claim of Shri Jarnail Singh within a day or two. The prayer has been allowed. Thereafter the learned Counsel for the parties, including the learned Counsel for Government of India, have been heard at length on the claim of privilege. Necessary Orders in this regard will be passed in due course.


(M.K. Mukherjee)
Chairman.

932

ORDER

25.1.2001

Sri Kamal Pande, Secretary to the Government of India, Ministry of Home Affairs, has filed an application through an affidavit claiming privilege in respect of the following files pertaining to Netaji Subhas Chandra Bose :-

- A
- i) Bringing the ashes of Netaji kept in Renkoji Temple in Tokyo, Japan to India; and
 - ii) Posthumous announcement of award of 'Bharat Ratna' to Netaji ;

The privilege has been claimed under Sections 123 and 124 of the Evidence Act and Article 74 (2) of the Constitution of India.

Similar claim under Sections 123 and 124 of the Evidence Act has been made in another affidavit by Sri Jarnail Singh, a Joint Secretary in the Prime Minister's Office, in respect of documents dealing with the following issues :-

- B
- i) Controversies regarding Netaji's death and bringing his ashes in India from Japan ; and
 - ii) Identity of Mrs. Anita Puff, daughter of Netaji Subhas Chandra Bose.

Later on, with the permission of the Commission Sri N.K.Singh, Secretary in the Prime Minister's

Office has filed a supplementary affidavit supporting the claim of Sri Jarnail Singh. The learned Counsel for the deponents before the Commission raised a threshold question as to the maintainability of the claim on the grounds that none of the affidavits specifies the documents in respect of which privilege was being claimed nor do they indicate the reasons why it is apprehended that their disclosure would lead to injury to public interest. To bring home their contentions they have taken me through the averments made in the affidavits and relied on various judgments of the Supreme Court in this regard. Particular reference has been made to the Constitution Bench judgments of the Supreme Court in State of Punjab vs. S.S. Singh, AIR 1961 S.C. 493 wherein Gajendragadkar J. (as His Lordship then was), speaking for the majority, observed as under :-

" The sole and the only test which should determine the decision of the head of the department is injury to public interest and nothing else. Since it is not unlikely that extraneous and collateral purposes may operate in the mind of the person claiming the privilege it is necessary to lay down certain rules in respect of the manner in which the privilege should be claimed. We think that in such cases the privilege should be claimed generally by the Minister in charge who is the political head of the department concerned; if not, the Secretary of the department who is the departmental head should make the claim; and the claim should always be made in the form of an affidavit. When the affidavit is made by the Secretary the Court may, in a proper case, require an affidavit of the Minister himself. The affidavit should show that each document in question has

been carefully read and considered, and the person making the affidavit is satisfied that its disclosure would lead to public injury. If there are a series of documents included in a file it should appear from the affidavit that each one of the documents, whose disclosure is objected to, has been duly considered by the authority concerned. The affidavit should also indicate briefly within permissible limits the reason why it is apprehended that their disclosure would lead to injury to public interest."(emphasis supplied).

Reliance was also placed in *Amarchand Butayel vs. Union of India*, AIR 1964 SC 1658 wherein the above quoted principle was reiterated. Lastly, the attention of the Commission was drawn to the following passage from the judgment of Supreme Court in *R.K.Jain vs. Union of India* (1993) 4 SCC page 120.

"It is now settled law that the initial claim for public interest immunity to produce unpublished official records for short "State documents" should be made through an affidavit generally by the Minister concerned, in his absence by the Secretary of the department or head of the department. In the latter case the court may require an affidavit of the Minister himself to be filed. The affidavit should indicate that the documents in question have been carefully read and considered and the deponent has been satisfied, supported by reasons or grounds valid and germane, as to why it is apprehended that public interest would be injured by disclo-

sure of the document summoned or called for.
If the court finds the affidavit unsatisfactory
a further opportunity may be given to file
additional affidavit or he may be summoned for
cross-examination. If the court is satisfied
from the affidavit and the reasons assigned
for withholding production or disclosure, the
Court may pass an appropriate order in that
behalf. " (emphasis supplied)

In responding to the above contentions of the
learned Counsel for the deponents, Mr. Pal appearing
for the Union of India submitted that the affidavits
clearly indicate that the privilege has been claimed
in the line of the observations of the Supreme Court
in the above cases and therefore, no exception could
be taken to the same. He, however, fairly submitted
that if the Commission felt that the affidavits were
unsatisfactory, the Secretaries concerned may be given
an opportunity to file additional affidavits, as
observed by Supreme Court in R.K.Jain (Supra).

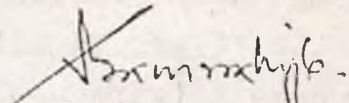
To find an answer to the above questions
I have carefully gone through the affidavits and files.
Unlike the affidavits filed on behalf of the Prime
Minister's Office wherein not only the documents have
been specifically mentioned but also the notes appea-
ring therein (Annexure I and IA respectively to the
affidavits), in respect of which privilege has been
claimed, the Ministry of Home Affairs have claimed
privilege in respect of the entire contents of their
two files. On perusal thereof, I find that these files
not only contain official notes and correspondences
between the Ministry of Home Affairs, Prime Minister's
Office and other Ministries but also records of Par-
liamentary proceedings, newspaper cuttings, open

letters sent by eminent citizens to the Ministry of Home Affairs and similar other documents. Apparently the latter class of documents cannot answer the description of 'secret' documents nor do they assume such a character simply by their inclusion in files marked "TOP SECRET". In that context, it was obligatory on the part of the Secretary of Ministry of Home Affairs to specify the documents in respect of which privilege was being claimed. So far as furnishing of the reasons as to why it is apprehended that the disclosure of the documents in the files would lead to injury to public interest is concerned, the only reason that has been given in the affidavit is that disclosure of the records would cause injury to India's relation with some friendly foreign countries. Whether the above reason is appropriate one or not need not be decided at this stage but suffice it to say that the reason is not even available to other documents appearing in the files. In all such circumstances, the Ministry of Home Affairs was also required to indicate the specific reasons for which the contents of the other relevant documents in the file should not be disclosed.

For the foregoing discussion, the Secretary, Ministry of Home Affairs is directed to file a supplementary affidavit regarding their claim of privilege keeping in view the observations made hereinbefore and the principle laid down by the Supreme Court as to the manner in which it is to be claimed. The supplementary affidavit should be filed within a month of communication of this Order. Let a copy of this Order alongwith the files received from the Ministry of Home Affairs be sent for their response.

237

3. So far as the affidavits of Prime Minister's Office are concerned, they undoubtedly specify the documents and the notes in respect of which privilege is claimed. As regards the documents pertaining to the identity of Mrs. Anita Puff, daughter of Netaji Subhas Chandra Bose, the same are not relevant to the terms of reference and hence the same may be sent back. The other documents and notes relate to correspondence between the Prime Minister's Office and the Home Ministry; and the same also find place in the files of Ministry of Home Affairs in respect of which privilege has been claimed. In all such circumstances, appropriate Orders regarding the merits of the claim of privilege in respect of those documents will be made on receipt of response of the Ministry of Home Affairs to this Order.


(Monoj Kr. Mukherjee)
Chairman

PRIME MINISTER'S OFFICE

SECRET

238

Subject: **Claiming of privilege in respect of the documents to be furnished to the Justice Mukherjee Commission - clarification regarding.**

Reference is invited to MHA note No.1/12014/13/2000-IS(D.III) dated 14.3.2001 on the subject noted above.

Of the five documents listed in the above referred Communication following three documents alongwith their relevant files have already been made available to the Justice Mukherjee Commission.

1. PMO U.O. Note No.870/11(P)/10/93-Pol dt. 13.10.93.
2. PMO U.O. Note No.PMO(NGO)354/T/94 dt. 16.9.94.
3. PMO U.O. Note No.G-16(3)/95-NGO dt. 30.11.95

It has also been clarified through filing of an Affidavit by this office that all notes/correspondence originating from PM's office, copies of which have already been made available to the Commission may be graded as Confidential. Therefore, the Security grading of the aforesaid documents may be treated as confidential.

.....2/-

-2-

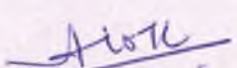
The remaining two "Secret" u.o. notes (No.805/11/C/13/95-Pol(Vol.II) dated 19.12.95 and 18.1.96 which relate to a proposal for DNA Analysis of the Ashes presumed to be of Netaji's could not made available to the Commission by this office so far as these papers had in-advertantly been lodged in a some what unrelated file and therefore could not be located while forwarding other files/documents to the Justice Mukherjee Commission, However, copies of these u.o. notes are available in MHA file on which MHA intend to claim privelege. Therefore, our stand in respect of these two documents would be similar to the position as explained in our Affidavit referred to above.


[Archana Ranjan]
Director

Shri Mukesh Mittal , Deputy Secretary (ISD), MHA
PMO U.O. No. 915/11/C/2/2000-Pol dated March 22, 2001

Copy to : NGO Section, PMO.

*At copy in
Justice Mukherjee
Comm. file.*


[Alok Mukhopadhyay]
Under Secretary(Pol)



Regd. with A/D.

SECRET

From: Tarakeswar Pal

Advocate

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Senior Standing Counsel to the Govt.
of India in Justice Mukherjee Commi-
ssion for Inquiry Into the Alleged
Disappearance of Netaji Subhas
Chandra Bose.

August 1, 2001.

To
Smt. Sangita Gairola,
Joint Secretary (JS-1),
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi- 110 001.

Dear Madam,

Re: Written advice including advice on evidence in
respect of Averments/Contentions/Allegations of
the deponent Sri Usha Ranjan Bhattacharjee in
his Affidavit dated 5th March, 2000 concerning
Govt. of India.

A N D

Your letter No. 1/12014/10/2001-IS(D.III)
dated 4th July, 2001.

With the voluminous Affidavit, failing to cope with your
request, I, amidst ~~hurry~~ making myself ready for hearings of the
Hon'ble Justice Mukherjee Commission at Faizabad, may put the
above advice on the said Affidavit as follows :-

Contd..2/p.



241

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1.. The case of the said Deponent is as follows :-

(a) That the Netaji was apprehended on 13th August, 1945 at Singapore by CSIDIC (Combined Services Detailed Intelligence (Interrogation) Centre- Intelligence Centres of the British (under MI-3 of the British Government) in Eastern/Far Eastern Front) people under the machination of their agents in the Indian National Army (INA) Azad Hind Fauz, in particular S.A. Ayer and General Kiwani with some other aides in the INA.

(b) That the Netaji along with Habib-ur-Rahman was forcibly placed in a CSIDIC requisitioned conquered Japanese Bomber aircraft along with Japanese Pilot Mono Gaki and Japanese Crew members with Tommy soldiers as guards and the air craft left Singapore on the 14th August, 1945 at 09.00 hours.

(c) That the said aircraft flew via Rangoon and entered the British Indian Territory and touched-down for refuelling at Indian airports at Salutiker, Rupsi, Patna and arrived at Delhi airport just at sun set (at about 18.10 hours) at a remote corner of the aerodrome (which was under military control and civilian aircraft had no role) under tight security.

(d) That the Netaji and Habib-ur-Rahman were taken out of the said Bomber and were placed in a closed Military Police van, and were taken to Red Fort.

Contd...3/p.



242

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- 3 -

(e) That the Red Fort was converted as JNA Prisoners' Concentration Camp since 1943 (many barracks in Red Fort were constructed hurriedly at that time) with the JNA people arrested in India when they came to India to inform the people of India of the JNA and gradually with other JNA Prisoners, by June, 1945 there were over twenty-five thousand JNA soldiers in captivity in Red Fort under so strictest possible security that no Indian could even guess of JNA soldiers' captivity there but Gandhiji and Jawharlal Nehru of whom Gandhiji frequently visited the said captive soldiers to tame and advised the British to demobilise them and to send them to their Villages.

handcuffed

(f) That the Netaji and Habib-ur-Rahman were kept and/or captivated in a secluded strong room cell, handcuffed-

(g) That in the fog end of night of 14th August, the British War Secretary Philip Mason with another senior executive and a senior high ranking British soldier (with a revolver tied in a holster hanging loosely on his waist) entered the cell of the Netaji and Habib-ur-Rahman where the Netaji was sitting in a chair with Habib-ur-Rahman standing and Philip Mason argued the Netaji to influence him to neutralise -



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- 4 -

which failed. Philip Mason and the British Executive went back and then it stroke midnight in the Red Fort belfry and then the said British soldier took out his silencer-fitted revolver, came forward and stood in front of the Netaji, raised the revolver on the forehead of the handcuffed Netaji (Habib-ur-Rahman said: " What you are doing - A-H-A-T) and seeing the wrist watch, the said soldier fired point blank. The sound was like a coughing noise. The Netaji made painful voice: Ah as Habib heard.

(h) That the dead body of the Netaji was burnt to ashes in the Red Fort and the said ashes was buried in the Red Fort soil on 16th August, 1945.

(i) That after murder of the Netaji, Habib-ur-Rahman was taken to Taihoku (as Habib choose between death and life) and the story of plane crash, cremation of the Netaji's remains at Taihoku on August , 20, 1945, the ashes taken by Habib-ur-Rahman to Tokyo some weeks later, observation of funeral rites at Renkoj Temple on 14th September, 1945 and keeping ~~xx~~ of ashes at the said Temple were planted.

(j) That the circumstances leading to the murder of the Netaji are as follows : 1) Fall of Burma on 10th August, 1945 (after defeats of the Japanese military might on attacks by

Contd..



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- 5 -

Allied forces between 9th March, 1945 and 9th August, 1945).
(ii) Acceptance of terms of surrender by the Emperor of Japan on 14th August, 1945 (which was signed on 2nd September, 1945) and surrender documents of Germany and Italy were signed on 7th May, 1945). (iii) In fact, on 14th August, 1945 entire Japan and the Pacific Islands and other lands came under the control of General MacArthur as absolute ruler of Japan. (Emperor of Japan's recorded voice of surrender was broadcast from all Radio stations in Japan on 15th August, 1945): (iii) With defeats in war front Japan was running short in fuel reserve and war materials also. (iv) Japan's request to ^{Stalin} ~~Stalin~~ for negotiation with U.S.A. was refused. Potsdam conference held on 13th day of July, 1945. (v) On 6th and 9th August, 1945 atom bombs were exploded on Hiroshima and Nagasaki. Japanese Emperor was adamant to surrender. Hence Japan cannot, nor she had authority, power and ability to help Netaji to fly in a bomber from Singapore on 18th August, 1945 leading to crash at Taihoku.

(k) The circumstantial aftermath the murder of the Netaji is manifest in the following events amongst others :
(i) Murder of the Netaji was not made public, but it was known

Contd..



245

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- 6 -

to Gandhiji and Jawaharlal Nehru whose speeches on and after 20th August, 1945 show changes in ^{their} attitude towards the Netaji to gain political mileage. (i) The British imperialists were also making propaganda to neutralise Netaji's influence by making motivated and qualifying estimation of the NETAJI, vis-a-vis were ~~making~~ backing Gandhi - Nehru Cult of the Congress. (ii) Nehru's address on 15th August, 1947 at Red Fort commenting on the Netaji and using Netaji's slogans. (iv) Motivated treatments of INA prisoners, and episode of INA Trial with a view to wipe out the Netaji's influence. (v) Nehru and Mountbatten's visit to INA memorial in March, 1946 at Singapore and Mountbatten's arrogant behaviour to the Memorial vis-a-vis Gandhi-Nehru's acceptance of Indian Dominion with Mountbatten as Governor General and Jinnah's refusal of such ~~Governor~~ ^{Gouverneur} General for Pakistani Dominion. (vi) Un-official commission, Shah Nawaz Committee's limited authority and its failure to visit ~~Naxos~~ Taihoku and cross-examine people there. Nehru was compelled to set up the committee, but, he did not like it, (vii) Justice Khosla Commission's proceedings show that the Taihoku plane crash story was completely a transplanted drama-suggesting that the episode of plane crash was woven to divert the people from the truth: the murder of the Netaji in Red Fort at Delhi.

Contd.



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- 7 -

2. Apart from referring to his book in English titled, "Netaji was murdered in Red Fort (1990)", the deponent referred to the secret documents of the CSJIC (Combined Services Detailed Intelligence Centres of the British Force) but the said Centre was ~~xx~~ closed after the Netaji's murder and the British took all these documents to London - which may be procured from the Government of United Kingdom.

3. In view of above the Government of India, in my considered opinion has nothing to join save and except the duty to search out any records or documents relating to as following, which may be relevant, and if found, to place before the Hon'ble Justice Mukherjee Commission *by Affidavit and if not that also to submit by Affidavit:*

- (a) CSJIC documents with the Government of United Kingdom.
- (b) Construction of barracks in Red Fort in 1943 and after (it may relate to the civil Constructions division of the Ministry of Defence).
- (c) Records in respect of refuelling of the Japanese bomber on 14th August, 1945 in the Airports at Salutikor, Rupai and Patna (it may relate to the Ministry of Civil Aviation (in particular Airports Authority of India) and Ministry of Defence.

Contd..



247

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- 8 -

(d) Details of INA Prisoners in Red Fort as to visitors and detainees since 1943 upto their trial is over (it relates with the records of the Ministry of Defence).

(e) Records in respect of aircrafts landing at and flying from the Delhi Aerodrome during the days: 14th August, 1945 and 17th August, 1945 (it may relate with the records of the said Air - port Authority of India or Ministry of Defence).

(f) Log books or records relating to the Military Vehicles as were being used by the British Military during 14th August, 1945 and 17th August, 1945 in Delhi (it may relate to the Ministry of Defence).

(g) Existence of - strong room (or very secured) secluded Cell in Red Fort (from where no sound can be heard even by people within the Red Fort) (it may relate to constructions division or civil engineering division of the Ministry of Defence).

(h) Records relating to formation and proceedings of the Shah Nawaz Committee (it may relate to the Cabinet Secretariat, the Prime Minister's Office and Ministry of ^{External} ~~Foreign~~ Affairs - although some of the records as to proceeding have been placed before the Hon'ble Justice Mukherjee Commission).

Contd..



248

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- 9 -

(i) Records relating to Justice Shah Commission (of your Ministry and the same have been placed).

(j) Speeches by Gandhiji and Jawharlal Nehru since 1942 upto 15th August, 1947 (it may relate to your Ministry of Home Affairs).

(k) Any intelligence or war reports on the status and activities of the Allied Forces and the Japanese during 9th March, 1945 and 2nd September, 1945 in the areas of Japan and under Japan and the Pacific Islands (it may relate to the Ministry of Defence).

(l) Accounts of visits of Jawharlal Nehru and Mountbatten to Singapore during 1945 to 1947 (it may relate to the Ministry of Home Affairs and also Ministry of External Affairs).

A general Affidavit denying or accepting the Affidavit in question should be made earlier than taking steps for records etc.

With the above may I conclude my advice here and am returning the said Affidavit of Sri Usha Ranjan Bhattacharya.

Thanking you,

Enclosed : As stated above.

Yours faithfully,

Sd/- T. Pal

Advocate

contd... P/10

249



Advocate
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- 10 -

Copies to : By Rgd. Post with A/D,

1. Sri Falguni Rajkumar, Joint Secretary (Trg.) & CAO, Ministry of Defence, Govt. of India, South Block, New Delhi - 110001 - with request to take steps for filing Affidavit in the matters of items (a), (b), (c), (d), (e), (f), (g) and (k) of Paragraph No. 3 above.
2. Sri Jayanta Prasad, Joint Secretary, Ministry of External Affairs, Govt. of India, South Block, New Delhi - 110001 - with request to take steps for filing Affidavit in the matters of items (a), (h) and (l) of Paragraph No. 3 above.
3. The Secretary, Ministry of Civil Aviation, Govt. of India, Rajib Gandhi Bhawan, Safdarjung Airport, New Delhi - with request to take steps for filing Affidavit in the matters of items, (c), (e) and (h) of the Paragraph No. 3 above.
4. Sri Jarnail Singh, Joint Secretary, P.M.O., Government of India, South Block, New Delhi - 110001, with request to take steps for filing Affidavit in the matters of item (h) of Paragraph No. 3 above.
5. The Secretary, Cabinet Secretariat, Govt. of India, South Block, New Delhi - 110001, with request to take steps for filing Affidavit in the matters of item (h) of Paragraph No. 3 above.

Tarakeswar Pal
(Tarakeswar Pal)
Advocate.

urgent.
Pl. discuss
by 9/8

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9/8
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VS(Poe)

Copy retained.
Pl. examine
urgently.

Shri Ram

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From: Tarakeswar Pal

Ragd. with A/d.

To
Smt. Sangita Gairola,
Joint Secretary (ISI)
Ministry of Home Affairs
North Block
New Delhi-110001.

Dear Madam,

Advocate
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' Purnasasi '
33, Asoke Avenue Kolkata-700040
Ph. 471-0592; Fax-471-1204
Senior Standing Counsel to the Gov
t of India in the Justice Mukher-
jee Commission of Inquiry To
Inquire Into The Alleged Disappear
-ance of Netaji Subhas Chandra Bose
August, 2, 2001.

Re: Written advice including advice on evidence
as to the averments/Contentions/Allegations made
in the Affidavit by 1) Subrata Bose, 2) Smt.
Chitra Ghosh and 3) Sri Supriyo Bose, before the
Hon'ble Justice Mukherjee Commission

- And

Your Letter No.1/12014/10/2001-IS(D. III)
dated 4th July, 2001.

The case of the deponents (nephew, niece and grand nephew of the Netaji)
for themselves and for seven others (who are nieces, nephew and grand nephew of
the Netaji) in the said Affidavit are as follows :-

1. That the Netaji did not die in the alleged plane crash at Taihoku on 18th
August, 1945, and therefore the ashes kept at Runkoji Temple cannot be that
of the Netaji's. This belief is/was shared by all the members of the family and
brothers of Netaji. Late Satish Chandra Bose and Late Sarat Chandra Bose (eminent
political leaders) and brothers of the Netaji vented such belief out in state-
ments in several political meetings and rallies.

2. That the finding of the Shah Nawaz Committee was qualified with dissentient
report of Shri Suresh Chandra Bose (with the points that the committee did not
visit Taihoku and there are several anomalies in evidence).

3. The deponents referred to the following :-

a) The dissentient report of Shri Suresh Chandra Bose one of the members
of the Shah Nawaz Committee. (This report has been submitted with the
affidavit but the copy of same has not been supplied with the affidavit, although
the said original report is with the records of Shah Nawaz Committee
which have been produced before the Hon'ble Justice Mukherjee Commission)

b) The seventy five page report dated 31st December 1945 of the Combined
Services Detailed Interrogation centre under MI-3 of the British Government
as to interrogation of Colonel Habibur Rehman's evidence signed by one Captain
Biren Chakraborty and counter signed by one Colonel Stevenson (This record
relates with the Ministry of Defence, Government of India)

c) A book titled, "Unto Him A Witness" by Shri S. A. Iyer to Show anomalies in
publishing the news of death of the Netaji. (This may be matters of your
Ministry and also Ministry of Defence).

d) About 9000 (nine thousand) files of the Defence Ministry lying with the
National Archives of India. (National Archives of India has already submitted



-2-

(251)

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In this regard, before the Hon'ble Commission).

5) The deponents have submitted for finding the following records to deliver before the Hon'ble Commission for consideration.

- a) The relevant records (without specification), in the Prime Minister's office during Jawahar Lal Nehru.
- b) The relevant records (without specification) of the Government of the U.K. U.S.A. France, C. I. S., Germany, China, Japan and Vietnam and other relevant countries.
- c) In view of above the P.M.O., the Ministry of Defence and the National Archives of India should submit affidavits stating the facts as to the said records. Before that a general affidavit on your behalf should be filed denying or accepting or otherwise. The said Affidavit of Subrata Bose and others is returned herewith).

Thanking you,

Yours faithfully,

T. Pal
(Tarakeswar Pal)
Advocate

Enclo: AS stated above.

copy to : By Regd. post with A/D.

1. Sri Falgunia Rajkumar, Joint Secretary (Trg). & CAO, Ministry of Defence, Govt. of India, South Block New Delhi-110001.
-for taking steps to file affidavit in the matters of paragraph no. 4 above.
2. The Director, National Archives of India Janpath, New Delhi.
-for filing affidavit in respect of item (d) of paragraph no. 4 above.
3. Sri Jayanta Prasad, Joint Secretary, Ministry of External Affairs, Govt. of India South Block, New Delhi-110001. for filing affidavits in the matters relating to items (b) of paragraph no. 5 above.
4. Sri Jamail Singh, Joint Secretary, P.M.O. South Block New Delhi-110001 for filing Affidavit in respect of items (a) of paragraph no. 5 above.

Tarakeswar Pal
(Tarakeswar Pal)
Advocate

Pl. discuss today

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2/9/8
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Copy retained. 1/9/8
2 put up. 1/9/8
Shm Ram

(252)

POLITICAL SECTION

Please find enclosed copies of two letters dated 26/28/08/01. and.
29th August, 2001/ 3rd September, 2001 from Shri Tarkeswar
Pal, Senior Standing Counsel to the Govt. of India in Justice
Mukherjee Commission, Kolkata for information and necessary
action.

Alok

(Alok Mukhopadhyay)
Under Secretary (Pol)
19.9.2001

1. (ए.जी.पी.)/PMO (NGO,
2. By No. 159/91.2.9.1 ...
3. Date..... 28.2.9.1..

US (NGO)

On Ramaswamy
29





REGISTERED WITH A/D

From Tarakeswar Pal, ²⁵³
Advocate

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To

Senior Standing Counsel to the Govt. of
India in Justice Mukherjee Commission.

Smt. Sangita Gairola,
Joint Secretary, (IS-I),
Ministry of Home Affairs,
Govt. of India,
North Block,
New Delhi - 110 001.

August, 26, 2001

28

Dear Madam,

Re. : Your Letter No. 1/12014/10/2001-IS(D.III)
dated 4th July, 2001.

- And -

Written opinion including written opinion
on evidence as to averments/contentions/
allegations made in the Affidavit dated
23rd January, 2000 by Sri Bijan Ghosh,
the deponent No. 19 before the Hon'ble
Justice Mukherjee Commission.

The case of the abovementioned deponent is as
follows :-

(A) In so far as,
NCO Section is
concerned, it
has made
photocopies of
all the typewritten
files available
to the Commission.
Privilege has
been claimed
only in respect
of files which
had originated
from M/Home Affairs
and related papers
on PMO files.

- a) That no useful and effective purpose can be had out of the present Justice Mukherjee Commission of Inquiry if the documents/records classified are not produced before the Hon'ble Commission, particularly, the leading decision of the Government of India in 1992 for conferring "Posthumous Bharat Ratna" upon the Netaji.
- b) In view of the stand of the Govt. of India taken in Writ Petition No. 11195(W) of 1999 (Bijan Ghosh - vs - Union of India and others) in the High Court at Calcutta, to the effect that the Govt. of India will "render all assistance to the Commission set up for enquiry as regards the whereabouts of Netaji" as recorded in the order dated 1st December, 1999 passed by the Hon'ble Justice Satya Brata Sinha, the Acting Chief Justice (as His Lordship then was) and the Hon'ble Justice M.H.S. Ansari, the Govt. of India, through bound, has not produced (on declassifying) documents/files -

contd... p/2

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- 2 -

particularly the 9000 files pertaining to Netaji and INA (those are remaining in the Red Fort under the Ministry of Defence) after declassifying and sending about 1000 files to the National Archives of India before the Hon'ble Justice Mukherjee Commission.

c) The Govt. of India has also not produced "some further contemporary official documentary records" relying on which the Hon'ble Prime Minister of India informed on 28th August, 1978 the Parliament that doubts and contradictions cropped up and as such the reports of Shah Nawaz Committee and Justice Khosla Commission were declared not decisive,

(c) NGO has no papers

d) The Late Morarji Desai, Ex-Prime Minister of India (except whom - even ^{any} M.P. was allowed) examined the boxes/diplomatic cambis bags full of gold ornaments and Jewellaries (of the Ajad Hind Government) as were kept in National Museum after it were brought from one's personal custody where the same were collected from the spot of the alleged plane crash killing the Netaji (on 18th August, 1945). Those articles should be ordered to produce before the Hon'ble Commission along with demand for accounts as to the money and treasure of the lawful Ajad Hind Government Bank.

? ← e) The Netaji, being a War Criminal, is not a citizen of India as per Part II of the Constitution of India, and to face this the records as to declaring such War Criminal be produced, and the Netaji being a War Criminal of "International" category, the working of the present Justice Mukherjee Commission to know this whereabouts, is impossible, although the Hon'ble Orissa High Court ordered on 23rd October, 1998 directing the Govt. of India to take all steps to remove the name of the Netaji from the War Criminal list.

f) Voluminous documents in possession of the State Archives of West Bengal and other States should be ordered to produce before the Hon'ble Commission.

g) Classified documents pertaining to the Netaji and INA in U.K., U.S.A., Russia, Vietnam, Mongolia, Taiwan, Germany, Italy and China should be ordered to collect.

h) Full text of Volumes VI and VII of Transfer Of Power should be ordered to be produced.

i) The total proceedings of Red Fort INA Trial, Shah Nawaz Committee and Justice Khosla Commission should be produced.

contd...p/3



From : Tarakeswar Pal,

255

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- 3 -

2. As the points raised by the deponent are mainly as to documents/files/records with some aspects of facts which are clear in itself and you are required to comment in your Affidavit as to availability, non-availability with reason and producing of the available records except which have already been produced before the Hon'ble Commission, and to state as to the facts relating to classification of the records as alleged, particularly in respect of 9000 files in the Ministry of Defence. Draft Affidavit may be sent to me. The Affidavit of Sri Bijan Ghosh is sent back to you herewith, with request to send copy of said Affidavit to me for the purpose of subsequent evidence and argument.

3. However you are to comment on sub-paragraphs (a), (b) and (e) to (i) of foregoing first Paragraph.

Thanking you,

Yours faithfully,

SPH

(Tarakeswar Pal)

Advocate

Senior Counsel-I to
the Govt. of India.

Copy to :-

1. Smt. Archana Ranjan, Director, P.M.O., South Block, New Delhi - 110001 - for comment and affirm due Affidavit to be filed before the Hon'ble Commission on sub-paragraphs (a) and (c) to (e) of foregoing first Paragraph.
2. Shri Jayant Prasad, Joint Secretary, Ministry of External Affairs, Govt. of India, South Block, New Delhi - 110001 - for comment and affirm due Affidavit to be filed before the Hon'ble Commission on sub-Paragraphs (e), (g) and (i) of the foregoing first Paragraph.
3. Dr. S. Sarkar, Director General, National Archives of India to comment and file Affidavit on the matters in all the items (a) to (i) of the foregoing 1st paragraph as may be relevant.

Tarakeswar Pal
(Tarakeswar Pal)

Advocate

Senior Counsel-I to
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256

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Senior Standing Counsel to the Govt. of
India in Justice Mukherjee Commission.

To

Smt. Sangita Gairola
Joint Secretary, (IS-1),
Ministry of Home Affairs,
Govt. of India,
North Block,
New Delhi - 110 001.

August, 29, 2001

September, 3,

Dear Madam,

Re. : Your Letter No. 1/12014/10/2001-IS (D.III)
dated 4th July, 2001.

- And -

Written advice including advice on evidence
in respect of averments/contentions/alloga-
tions of the deponent Sri Anil Krishna
Mukherjee on his behalf and on behalf of the
All India Forward Block, a political party
(being Deponent No. 19).

1. The case of the abovementioned Deponent No. 19 is as
follows :-

A a) Jawahar Lal Nehru stated on 11th September, 1945 at
Jhansi to A.P.L. that he did not believe the death
report of the Netaji; on 5th March, 1952 to the Parlia-
ment that the Netaji's death was a settled fact, and on
29th September, 1955 to the Parliament of the possibility
of an enquiry by the Govt. of Japan on the factum of
death of the Netaji, but on the verge of setting up of a
non-official committee to enquiry the said fact of death

contd... 2



257

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- 2 -

of the Netaji under the Chairmanship of Dr. Radhabinod Pal, Jawahar Lal Nehru appointed in 1956 a committee for such enquiry ^{^ but} that Shah Nawaz Khan who visited Japan on 4th May, 1956 to interview only the people who might offer direct evidence on the Netaji's death (as reported on 6th May, 1956 in Indian News Paper) and thus his report was made as Jawahar Lal Nehru wanted. In the same line the report of the Justice Khosla Commission, 1970 (appointed on public pressure) was made discarding the evidences as circumstantial evidence (which are massive against heresay statement of the Netaji's death). And on 28th August, 1978, the then Prime Minister of India, Morarji Desai, declared in Parliament that the reports of Shah Nawaz Committee and Justice Khosla Commission can not ^{^ be} accepted as decisive on contradictions etc. and on "some further contemporary documentary records" - ~~as~~ as was also cited in written statements made in September, 1979, in the Parliament by the Hon'ble Minister Dhaniklal Mondal against proposal for bringing the alleged ashes of the Netaji from Renkoji. ~~On the above facts:~~

- (i) The information as to the documents leading the Govt. to such stand is, still being scuttled, and,
- (ii) the Govt. has not made any formal announcement that all files on the Netaji and INA will be disclosed.

- B b) The alleged plane crash on 18th August, 1945 at Taihoku killing the Netaji [^] are not proved and believable in view of the discrepancies and contradictions as following :

contd...p/3



258

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- (i) News item by Domei, a Japanese private news agency circulated on 22nd August, 1945 as reported in London on 23rd August, 1945 by the Reuter as reproduced on 24th August, 1945 in India, by the Amrita Bazar Patrika reporting the death news of the Netaji contain doubts as to death, alleged places of treatment, dates of death and announcement thereof, incident of alleged plane crash and drafting of the Netaji's death announcement by Shri S.A. Iyer, Minister of Publicity and Propaganda, provisional Government of Free India, to Domei, as per his book ~~film~~ titled, "Unto Him a Witness".
- (ii) The unusual conducts of the Japanese authorities, particularly of Colonel Tada and Rear Admiral Chuda giving news of death of the Netaji to Shri S.A. Iyer without disclosing source of such information at any time any where and misleading Shri S.A. Iyer to Tokyo in the name of leading him to Taihoku, the alleged place of plane crash and to facilitate meeting Col. Habib-ur-Rahman under treatment due to said plane crash, read with, Signal To Hikari Kikan (Japanese Intelligence Organisation) on August, 18, 1945 stating incidence of August, 17, 1945 by General Isoda directing to inform Indian ~~Community~~ ^{of the Netaji's leaving to Singapore & Saigon} Community (this signal was to Bangkok from Chief of Staff, Southern Army, Southern Army Signal 303, as seized by the British Intelligence from Bangkok) suggesting that the announcement of death news of the Netaji was a fabricated one to mislead the world with a view to veil the Netaji's original programme.

contd.... p/2



259

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(111) With the statements of Shri S.A. Iyer, in his book, "Unto Him a witness",

- a) the Signals of Hikari Kikan received at Bangkok ;
- b) Lord Mountbatten's comment as "a possible plant" to the death news of the Netaji disbelieving the same as recorded on 2nd November, 1945 in his diary ;
- c) Contradictory statements by Col. Habib-ur-Rahman on different dates as to the incidence of the alleged plane crash and aftermath as detailed in the book titled "Netaji Dead or Alive ?" by Prof. Samar Guha ;
- d) comments of Colonel Figges of the British Intelligence in his report dated May 19, 1946 to Intelligence Bureau, New Delhi (in file No. C-5 at Page 5 as referred to at page 223 in Prof. Samar Guha's said book, Netaji Dead or Alive ?) ;
- e) serious contradictions in Doctors' reports and statements by Dr. T. Yoshimi, Dr. Tsuruta Toyoshi and Dr. Yoshio on different dates before Allied Intelligence, Netaji Inquiry Committee, 1956 and Netaji Inquiry Commission, 1970 ;
- f) necessity of investigation of truth in the death news of the Netaji as seen in Reports ^{dated 25th July, 1946} by J. G. Figges ~~dated July, 1945~~ ^{dated 25th July, 1946} of the Military Adviser of the United Kingdom Liaison Mission in Japan, British Embassy, Tokyo and that of October, 16, 1945 ^{at} the HQ, SACSEA Commission No. 1, Saigon (Collectively Annexure - 'B' to the Affidavit under contd....p/5



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- 5 -

consideration) showing the existence of two death certificates none of which have ever been produced.

- (c) Due to devolution of obligation to treat the Netaji as a War Criminal, to Indian Dominion in 1947 from the British India Govt., the Netaji planned to escape to Russia and reached INA's Embassy in Omsk of Siberia after 18th August, 1945 as Netaji's plan of escape and arrival at Omsk are traced in Military Intelligence Reports and findings of the Asiatic Society scholars. The Military Intelligence records are as follows :-

- (i) Book titled "German Military Intelligence" as submitted to and included in the proceeding of the Netaji Inquiry Commission, 1970 including argument of Sri Bhasin, which record Russian Co-operation to the Netaji during his stay in Russia in the Spring of 1941 (the Netaji escaped from Calcutta on 16th January, 1941),
- (ii) While the file being 249/INA-GHQ on the case - Bose and Russia, records of Russia's attitude in favour of India's independence has been in consideration of the Netaji, the Netaji's letter dated November, 20, 1944 from Imperial Hotel, Tokyo to Jacob Malik, the Soviet Ambassador, Tokyo desiring to meet him recording Russia's favours to India and his ^(the Netaji's) likings for Russia (this letter being Annexure-'C')

contd....p/6



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- 111) The Secret File No. 249-INA-11(H) GHQ case on Subhas Chandra Bose records that the Netaji was preparing to visit and visited Russia in 1944 (when to mislead British intelligence which already guessed Netaji's movement to Russia, Japan aired Netaji's death towards the end of 1944) and from Head Quarter Main File 279/1 INA 10 Misc, it is known that during this time the Netaji arrived Saigon where Isoda was also present and with the help of Japanese intelligence, Hikari Kikan, ^{^ like Netaji} ~~Bose~~ was allowed to go to Russia under the cloud of false story of the Netaji's death and the Netaji's entry to Russia required no confirmation from Russia as per the Head Quarter Main File No. 273 INA (Misc. INA).
- iv) The Head Quarters Main File 273/INA records that the Netaji wished to enter India from Russia via Chitral as the Netaji informed in his letter to Jawhar Lal Nehru and it has also been recorded in this file that in December, 1945 the Russian Ambassador in Kabul informed the Governor of Afgan Province of Khost that the Netaji among many Congress refugees was in Moscow, and Moradoff, the Russian Vice Consul General disclosed in March, 1946 that the Netaji was in organising a group of Russians for the freedom of India.
- D d) The Netaji's existence after the alleged plane crash at 1400 hours on August, 18, 1945 are evident from the following records :-
- 1) Netaji's live Radio speech broadcast from Singapore

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at 2115-25 hours on August, 18, 1945 (Monitoring service records, recorded by M.L. Khosla, All India Radio, Simla, Volume : II available in National Archives of India-Annexure 'D' to the Affidavit)

- ii) European member, Sri A.A. Wise did not want to condole the death of the Netaji at the meeting of the Calcutta Corporation assembled on 28th August, 1945 to condole the death of the Netaji, as he was not a dead man - the European members went out of the Council Chambers. (Corporation Proceeding dated 28th August, 1945 - annexed as 'E' to the Affidavit),
- iii) News items published in the Hindusthan Standard on 30th August, 1945 ; 3rd September, 1945 ; 4th April, 1956 (with Thevar's Statements) inform the Netaji's presence in Saigon on August, 25, 1945 as per American correspondent, with further information that the Anglo-American Military circles did not believe the Japanese report of the Netaji's death. The report of Sri Muthuramalinga Thevar, MLA, Madras Assembly and a Forward Bloc leader stated in a press conference on 3rd April, 1956 that as the Japanese Commander, Kimura, accompanying the Netaji in the crashed plane did not die rather, signing Japanese surrender in Singapore, so is the case with the Netaji with whom he lived from January, 1950 to October, ¹⁹⁵⁰ ~~1960~~ and at the time of his statement, the Netaji was in China. (News paper clippings are Annexures - 'F' 'G' and 'K' to the said Affidavit) and the International Biographic Press Service published on 10th October, ^{where} 1949, the article on the Netaji stating that the Netaji was



263

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waiting for an opportunity to hold his grip over the political back-ground of Asia, the text of which is ^{annexed} as Annexure-J to the Affidavit.

- iv) The session of the All India Congress Committee held on 21st September, 1945 resolved that the Netaji should not be included in the list of those who died since the last session as held on 8th August, 1942. This resolution is at page 27 of Prof. Samar Guha's "Netaji Dead or Alive".
- v) Dadabhai Naoroji's grand daughter Smt. Khurshed Naoroji informed Louis Fischer by her letter dated 22nd July, 1946 on the impression of Gandhiji and the Congress in the event ^{it} the Netaji takes help of Russia at that time - suggesting thereby of the alive Netaji. This letter is available in the Archives of Princeton University - a copy of which is annexed as 'H' to the Affidavit.
- vi) The American Consulate Guard, Bombay writes on 23rd May, 1946 to the Secretary of State, Washington D.C. that if the Netaji returns to India there would be trouble. In another letter dated 20th February, 1964 by Deputy Director of Security informs to his superior that as directed he cross examined a person of the U.S.A. who with document asserted that the Netaji was trying rebellion against Nehru Government in India. These (declassified) letters are remaining in the CIA custody, copies of which are collectively annexed as 'I' to the Affidavit.

contd....p/p



264

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vii) From the documents in Vol. VI of the Transfer of Power 1942-1947, particularly, (A) Lord Wavel's note in his diary on 24th August, 1945 records suspect of the death news of the Netaji for the Netaji's going underground, (b) Lord Wavel's letter dated 20th August, 1945 to Lord Pethick-Laurence records his proposal for not sending the Netaji back to India, (c) Letter dated 23rd August, 1945 by F. Moudie (Home Member in the Viceroy's Executive Council) to E. Jenkins (Private Secretary to the Viceroy) records proposal for dealing with the Netaji, (d) the item No. 109 at Pages from 262 to 263 of the said volume VI indicates the secret note of Military Intelligence dated 14th September, 1945 indicate existence of the Netaji underground, and, (e) the records of the meeting of the India and Burma Committee of the British Cabinet presided over by the Prime Minister, Atlee held on 25th October, 1945 show of considering the steps to be taken for the Netaji - suggesting his existence at the time underground branding him as "only civilian renegade of importance".

viii) The declassified documents in the National Archives of India contain^(a) a secret report dated 19th September, 1945 by R. Tottenham, Secretary, Home Department where contemplation for taking strong action against the Netaji has been recorded (File No. 16/3/45 - Poll (1), (b) the note dated 20th October, 1945 by Major Hugh Toye (in File No. 75/JNA in the National Archives of India) recording a Russian broadcast saying the Netaji would do another Imphal from the West of India, (c), A.P.L. News Agency's

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report dated 21st December, 1945 stating H.V. Kamath's statement that the Netaji was still alive (a copy is annexed as M to the Affidavit), (d) as per letter dated 16th January, 1946 by W.G. Lams, Deputy Inspector General of Police, CIS, Bombay province, Shivaji Nagar, Poona - 5 to J.R. De Chazel, Asstt. Director (W) I.B., H.D. Govt. of India informs of a News article published in the Dainik Samachar on 20th December, 1945 wherein the war correspondent Shri Narayan informed after tour in Far East that no evidence is available to prove the Netaji's death in the alleged plane crash, (e) Gandhiji's knowledge of the Netaji's existence in India is recorded in Daily INA report No. 1 dated 5th February, 1946, (f) in letter dated 19th February, 1946 by W. Mck Wright of I.B. (H.D.) New Delhi-3, to Major Courtenay Young recording discrepancies in the ~~xxx~~ versions of Japanese Govt. and Habib-ur-Rahman as to cremation and funeral of the Netaji's body at Taihoku and Tokyo, and General Isoda's message to inform the Indians in Bangkok of the Netaji's death - was preparation for hiding by the Netaji, (g) the secret correspondences dated 8th April, 1946 and 1st August, 1946 between Mckwright and Major Young record Nehru's receipt of the Netaji's letter and Sarat Bose's belief in January that the Netaji was alive, and possibility of the Netaji's escape, (h) from the questions put by Yuveraj Dutta Singh in the Council of States on 6th November, 1946 and 17th February, 1947 and answers on behalf of the Government of India by Shri A.E. Porter it is

cc:td... 5/11



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-: 11 :-

revealed that the Government, in place of accepting death news of the Netaji, was in search of the Netaji and to prevent him from entering India. Copies of The declassified documents remaining in the National Archives of India are being Annexures L to T to the Affidavit.

E e) The scholars of The Asiatic Society worked in various Archives in Russia under a Govt. sponsored research project on "Five hundred years" Indo-Societ relations" while Dr. Purabi Roy among those scholars came upon various documentary materials on the X Netaji's existence in Russia after the alleged plane crash on 18th August, 1945. She also studied in 1996 several records in London under the Asiatic society sponsored research project and there also she found materials on the Netaji's said Russian Linkage. However, as per the rules of the project the findings and materials collected in the said studies in Russia and London had been submitted to the Asiatic Society. The said materials have not been disclosed in public which should be ordered, as the said materials relate to the Netaji's existence in Russia after the alleged plane crash on 18th August, 1945. This information has been derived from the following :

1) News item on 26th October, 1982 in the Times of India informing that the Netaji had great respect for Russia and he ^{refused} ~~refused~~ to join Germany against Russia.

ii) Article, "Subhas Chandra Bose and Soviet Russia" by Prof.



267

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Prof. A. Raikov and introduced by Mitrokhin published in 1990 in journal, "Soviet Land" where it has been said that Netaji's name was not allowed to mention for long and Glasnost has brought opportunity to study on Indian personalities (meaning also Netaji).

- iii) Y.L. Kuznets' volume releasing documents of the period 1941-45 through Gorbachev Foundations concern personalities like the Netaji and Bhagat Ram Talwar having connections with various embassies in Kabul and KGB agent Zaman of USSR Embassy throw new light on the Netaji's (with secret code : Silver Moon) connection in Russia.
- iv) Articles "The life and death of Netaji Bose" by A. Vinogradov, and "Against whom Subhas Chandra Bose fought during world war II", by V. Turadzev - both published ⁱⁿ ~~from~~ ^{College} Scottish Church Commemoration Volume in 1992-93, convey ~~the~~ that there are not only records but also studies in Russia relating to the Netaji's true state of affairs ^{by} ~~and~~ Turadzev was asked by the Indian Embassy to stop ^{work} ~~on the Netaji~~.
- v) A. Raikov says in his article, "Secret of Subhas Chandra Bose" published in 1993 in Asia and Africa Today from Russia, that truth about the Netaji's death would be revealed from the K.G.B. and President's Archives.
- vi) As per Programme Of Cultural Scientific and Educational Exchange between the Asiatic Society was to prepare one Volume on archival

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266

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-: 13 :-

materials in Russia from 1917 to 1947 and the Secretary of the Asiatic Society Dr. Chandan Roy Chowdhury expressed in a press note that the scholars had found materials on the Netaji but they have not been allowed to study the KGB and ~~xxx~~ President's Archives. On 11th September, 1995, Dr. Roy Chowdhury says that Soviet Agent D.G. Sayad Neyats carrying Nehru's letter dated 3rd Sep September, 1946 from India to Moscow told to Soviet Consul in Teheran Embassy that the Netaji was trying to contact Forward Bloc leaders.

- f) On 14th September, 1995 the Amrita Bazar Patrika and the statesman inform that the disbanded KGB has documents on the Netaji but the Asiatic Society scholars had troubles in getting access to various Archives in Russia, ^{containing} ~~and also~~ communication by Nehru in August - September, 1946 to Russia as to the Netaji suggesting Live Netaji in Russia.
- g) The news items and articles published on 15th September, 1995 ; 19th September, 1995 and 21st September, 1995 in the Times of India, Bombay ; The Indian Express, New Delhi ; and The Eastman, Bengali Daily, Calcutta respectively, informing of materials on the Netaji in Russian Archives many of which have not been allowed to the Scholars of the Asiatic Society.

contd....p/14



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-: 14 :-

- h) The news items dated 3rd December, 1996 published in The Statesman, Calcutta says that there is no records on the Netaji's death in Russia.
- i) A. KolesnikoY's article, "A Russian Tribute to Netaji Subhas" published on 3rd January, 1997 in Journal "Patriot" (Russian) and on 19th July, 1997 in Mainstream (English translation) records possibility of the Netaji's stay in Russia.
- j) In the British Archives a Japanese news paper dated 20th December, 1945 is found informing the Netaji's visit of Tokyo on his way to Russia and Indian Police Intelligence report dated 2nd May, 1946 informs of live Netaji in Russia (These news items, articles, press note have annexed as U,V,W,X,Y,Z, AA, AB, and AC to the Affidavit).
- F k) That there had been a conspiracy against the Netaji in declaring him a War Criminal by adopting the Indian Dominion status of the U.K. agreeing to continue with the British Indian membership in the U.N.O. (international personality) obligating India after 15th August, 1947 and even after adopting of the Constitution in 1950 to have bounden by the Old treaties including that on War Criminal under which the Netaji is an International War Criminal. This Conspiracy continues in signing the treaty on war criminals' trial in 1971 by India. Govt. of India has withheld the records as to the Netaji's status as War Criminal (while the British decided on 25th October, 1945 to adopt ~~xxx~~ 'on the spot' Military Court Martial branding the Netaji as the "only civilian renegade of importance") during enquiries by Shah Nawaz Committee as well as Justice Khosla Commission.

contd...p/15



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-: 15 :-

2. The deponents' allegations against the Govt. of India are as follows :-

- NGO has no pps.*
- a) That the Govt. of India has withheld the records as to the War Criminal status of the Netaji (This may relate with the Ministries of Home and External Affairs).
- b) The said Govt. also did not disclose the records leading Jawahar Lal Nehru saying and doing :
- 1) On 5th March, 1952 that the Netaji's death was a settled fact;
- ii) On 11th September, 1945 at Jhansi to API that he did not believe the story of the Netaji's death on receipt of a number of reports ;
- iii) On 29th September, 1955 that the Govt. of Japan would proceed for an enquiry on the Netaji's death and opposed formation any official enquiry in India ;
- iv) but a few months later he formed Netaji Enquiry Committee, 1956 under Shah Nawaz Khan when a non-official Committee was going to set up under Dr. Radhabinod Pal.
- v) saying, something should be done to finalise the question of Netaji's death" in 1964, before death in a reply letter to Amiya Nath Bose. (These may relate to the P.M.O. and the Ministry of Home Affairs).

Now has no pps on Shah Nawaz Committee

c) That the Netaji Enquiry Committee, 1956 under Shah Nawaz Khan gave its verdict in line with what Prime Minister Nehru wanted it to be. (This may relate to the P.M.O.)

d) That the Justice Khosla Commission, 1970, was set up under

No pps. of Khosla Commission in now



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public pressure, but, with a view to acquire another support to the plane crash theory for the Netaji's death for the purpose of with holding the records. (This may relate to the P.M.O.)

e) The Govt. of India has not disclosed the records on which the Prime Minister Morarji Desai told on 28th August, 1978 to the Parliament that it was difficult to accept the verdicts of the Netaji Enquiry Committee, 1956 and Justice Khosla Commission, 1970, in view of doubts as to correctness of the verdicts and contradictions in the testimonies along with some further contemporary official documentary records. (These may relate to the P.M.O. and also the Ministry of Home Affairs).

f) The Govt. of India has also not disclosed the records relying on which the Hon'ble Minister Sri Dhaniklal Mondal made written statements to the Parliament against bringing the alleged ashes of the Netaji from Renkoji. (This may relate to the Ministry of Home Affairs).

g) The Govt. of India has not yet disclosed the documents/records which are contrary to the Netaji's death by plane crash, on 18th August, 1945. (This may relate to the P.M.O. and the Ministry of Home Affairs).

h) The Govt, of India has yet not made any formal announcement that all files on the Netaji and INA will be disclosed. (This may relate to the P.M.O. and the Ministry of Home Affairs).

contd...p/17

NGO has no pps.

Any info. not to be given to TS files - already been sent to the Commission. Except a few papers which had been sent to the Commission.

(ch) in view of (g) above, no further clarification is required from NGO side -

and on which privilege has been claimed by the P.M.O. have been written to the Commission to treat these papers as confidential and release if so desired by

Commission to treat these papers as confidential and release if so desired by



272

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-: 17 :-

- 1) The Govt. of India is not according co-operation, permission and initiative in allowing the researchers to study classified and non-classified records in the Archives outside India, rather, offering resistance, as in cases of KGB, St. Petersburg and other Archives in Russia. The Govt. has not yet allowed further researches. (This may relate to the Ministry of External Affairs).
- j) The Govt. of India has kept several records, ^{including those of Asiatic Society scholars} classified on meagre grounds. (This may relate to the P.M.O. and the Ministry of Home Affairs).
- k) The Committee of 1956 and Commission of 1970 were denied access by the Govt. of India to files asked for there, and the deponents apprehend such repititation by the Govt. of India before the present Justice Mukherjee Commission too. (This may relate to the P.M.O. and Ministry of Home Affairs).
- l) The Ministry of Defence, Govt. of India has yet not declassified 9000 files. (This relates the Ministry of Defence).
- m) The Govt. of India should negotiate formally with the Govt.s of the U.S.A., the U.K., Russia, Japan, Germany, East European countries, Central Asian and South-East Asian Countries to facilitate researches in their Archives. (This relates to the P.M.O. and the Ministry of External Affairs).

contd... 18



From : Mr. Tarakeswar Pal,
Advocate
HIGH COURT CALCUTTA
Bar Association Room No. 5
Phones : 248-3190/3169
Fax : (033) 248-2313
E-mail : barasohc @ cal. cmc. net. in
Residence :

-: 19 :-

- n) The Govt. of India is to disclose the following files of the Prime Minister's office (when Nehru was the Prime Minister) :-
- i) 1A, 2-A, 3-A, 6-A, 8-A, 16-A (U.O. Note No. D/S-86 6, dated August. 24, 1953, from P.M.'s Secretariat to Mohd. Yunus, MEA (SEA, BR),
 - ii) 17-A (U.O. Note No. D.3788-8EA/53, dated August 27, 1953, from Mohd. Yunus US, ME A(SEA) to P.M.'s Secretariat,
 - iii) 27-A (Memo No. 2/53/1971/3/601 151) dated October 13, 1953 from Mohd. Yunus. MEA (SEA) to P.M.'s Secretariat,
 - iv) 33-B (letter No. 20/62 (Accts) dated April 82, 1954, from the Joint Secretary, INA (Enquiry and Relief Committee, 82, Daryaganj, Delhi) to the President,
 - v) 37-A (Rajya Sabha's Starred Question No. 60 dated September, 28, 1954),
 - vi) 35-B (Note for supplementaries),
 - vii) 37-A (Lok Sabha Starred Question No. 334 dated August 2, 1955),
 - viii) 37-BCD (Enclosures to S.No. 37-A).
 - ix) ~~and~~ Notes 11,12,13,14,15,18,19,23,24,25, 26 and 29 File No. 23 (156)/51-P.M. (Indian National Army (INA) in the Far East).
 - x) 23(11)/56-57 PM (INA Treasure),
 - xi) 12 (226)/56 PM (Investigation into the circumstances leading for the death of Subhas Chandra Bose).
- (These relate to the P.M.O.)

contd. ...p/20



From : Tarakeswar Pal,
 Advocate
 HIGH COURT CALCUTTA
 Bar Association Room No 5
 Phones : 248-3190/3169
 Fax : (033) 248-2313
 E mail : barasohc @cal.cmc.net.in
 Residence :

-: 20 :-

- o) The Govt. of India should release the history of INA by late Dr. Pratul Chandra Gupta. (This relates to the Ministry of Defence).
- p) The Govt. of India should disclose the following :
 - i) J.L. Nehru's letters to the British Prime Minister Attlee on the Netaji during 1945 and 1947.
 - ii) Correspondences of Louis Fischer with Gandhiji, Khurshed Naoroji, the President of the U.S.A, the Prime Minister and other Political Leaders of the U.K. , and Stalin on the Netaji and India's Independence. (These may relate to the P.M.O., the Ministry of Home Affairs and the National Archives of India).
- 3. In view of above you are to comment/reply on the allegations enumerated in the foregoing Paragraph No. 2 or on any other relevant point as you may consider necessary. The said Affidavit of the Deponent No. 19 is sent herewith. Your draft reply/counter affidavit may be sent to me along with a copy of the said Affidavit at an early date as the same is required for hearing of the commission during recording evidences hereinafter and also for argument.
- 4. Be it mentioned that the allegations and demands against the Govt. of India by all of the deponents are mostly as to disclosure and submitting the records before the Hon'ble Commission . By several orders and directions the Hon'ble Commission has also

contd... 2/21



295

From : Mr. Tarakeswar Pal,
Advocate
HIGH COURT CALCUTTA
Bar Association Room No. 5
Phones : 248-3190/3169
Fax : (033) 248-2313
E.mail : barasohc @cal cmc. net. in
Residence :

-: 21 :-

asked for several records, in respect of which several replies have already been submitted to the Hon'ble Commission, coupled with submitting several records too. So at the time of replying or making counter affidavit, the references to earlier reply and submission of records previously should be referred.

Thanking you,

Yours faithfully,

sd/-

(Tarakeswar Pal)
Advocate.

Senior Counsel-I To The Govt. of India.

Copy to : (By Regd. Post. with A/D).

1. Sri Jayant Prasad, Joint Secretary, Ministry of External Affairs, Govt. of India, South Block, New Delhi - 110001,
2. Sri Falguni Rajkumar, Joint Secretary (Trg.) & CAO, Ministry of Defence, Govt. of India, South Block, New Delhi - 110001,
- ✓ 3. Sri Aloke Mukherjee, Under Secretary, P.M.O., South Block, New Delhi - 110001,
4. Sri S.M.R. Baqar, Deputy Director, National Archives of India, Govt. of India, Janpath, New Delhi - 110001,
- for comment/reply by Affidavit on the relevant allegations etc. enumerated and identified in Paragraph No. 2 and/or on any relevant point of the foregoing letter.

Tarakeswar Pal
(Tarakeswar Pal)
Advocate.

Senior Counsel-I to The Govt. of India.

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Kolkata 700 087

Phone:

Chairman - 252-2835
Secretary - 252-2767
Officer on
Special Duty - 252-2765
Office - 252-2766/68

e-mail:

jmcinsels@cal.3.vsnl.net.in

Fax :
0091-033-252-2765

No. JMCI/ RUSSIA/U.O. Papers/2001/77/624 Kolkata, dated, March 21, 2002

From : Shri P.K. Sengupta
Secretary

To : The Secretary
Prime Minister's Office
Government of India,
South Block
New Delhi-110001.

Sub: Letter dated 3.11.2001 received
from Dr. P.D. Mukherjee, Adviser,
Planning Commission(Rtd.)-----

S i r,

In inviting a reference to this Office letter No.
JMCI/Russia/U.O. Papers/2001/77/526 dated 22.1.2002, I am
directed to state that reply thereto from your end is yet
to be received.

I am, therefore, directed to request you to furnish
the Commission with your detailed report asked for in the
aforesaid letter as expeditiously as possible.

An early reply will be highly appreciated.

Yours faithfully,

(P. K. Sengupta)
Secretary

ADDL. SECY. TO PM
Dy. No... 896-9
Date... 22/3/02

1124/555/9
114 R30/NE5402

Pol Section

(277)

Please find enclosed a copy of
Ltr dt. 14.3.02 received from JMCI
requesting to furnish authenticated
true copy of this office Tno. 2 (64)/56-66
vol I & II.

A) According to information available
with us, vol II of Tno. 2 (64)/56-66 PM
is a Top Secret file. Hence, NSO Section may
pt. see for f.u.a.

Alou
1/04/02

US(NSO)

Re. check & report at once.

Nage
1/4/02

Shri Ramaswamy

A photocopy of the file at A' above
was sent to the Commission. Now the
above file has been downgraded
as Secret. Re. take it over for u/a.

NSO
2/4/02

US(bre)

सं.सं. (प्र.सं.सं.)/PMO (NSO)
दि. 28/4/02
दि. 28/4/02

JUSTICE MUKHERJEE COMMISSION OF INQUIRY
FOR INQUIRY INTO THE ALLEGED DISAPPEARANCE OF
NETAJI SUBHAS CHANDRA BOSE.
'B' Block, (Third Floor)
11/A Mirza Ghalib Street, Kolkata 700 087

Phone:

Chairman - 252-2010
Secretary - 252-2767
Officer on
Special Duty - 252-2765
Office - 252-2765/66/67/68/69

e-mail:

jmcomsch@cal.vsnl.net.in

Fax :
0691-033-252-2765

No. JMCI/Records/N.Delhi/99-2000/37(II)/ Kolkata, dated. 14th March '2002.
606(2).

From : Shri P.K. Sengupta,
Secretary

To : 1) The Secretary, Prime Minister's Office,
South Block, New Delhi-110001.
2) The Secretary, Ministry of Home Affairs,
Government of India, North Block,
New Delhi-110001.

Sir,

I am directed to send herewith a copy of U.O. Note dated 04.08.1972 of the Prime Minister's Secretariat sent to the Ministry of Home Affairs, Government of India, which appears at cor.page 64 of the Secret File No.2(64)/56-70-PM. Vol.V of the Prime Minister's Office and to state that from the said U.O. Note it appears that Vols. I and II of the Prime Minister Office's File No.F-2(64)/56-66-PM regarding "Death of Shri Subhas Chandra Bose-an appointment of an Inquiry Committee" were sent by the Prime Minister's Office to the Ministry of Home Affairs under the said U.O. Note and that no copies of Vols. I and II of the said file appear to have been received by the Commission from the Prime Minister's Office.

I am, therefore, directed to request you to send to the Commission authenticated true copies of Vols. I & II of Prime Minister's Office File No.F-2(64)/56-66-PM, as mentioned in the said U.O. Note, as quickly as possible.

I am further directed to request you to send to the Commission immediately authenticated true copies of Prime Minister's Office File No.2(67)/56-62-PM which along with other files including Vols. I and II of Prime Minister's Office File No.2(64)/56-66-PM were returned by the Khosla Commission to the Prime Minister's Office under the said Commission's d.o. letter dated July 5, 1974, (copy enclosed) which is lying at cor.page 144 of the Prime Minister's Office Secret File No.2(64)/56-70-PM. Vol.V.

Enclosures: As stated above.

Yours faithfully,

(P. K. Sengupta)
Secretary

x not enclosed.
1/14.

726/PSH/02

CC. SECY. TO PM
No. 192-S
2/15/02

247/PSH/S
26/3

MOST IMMEDIATE

No. G-16(4)/2000-NGO(Vol-I)
PRIME MINISTER'S OFFICE
(NGO SECTION)

SOUTH BLOCK, NEW DELHI
DATED: 09.11.2006

OFFICE MEMORANDUM

Subject: Declassification of records

Reference is invited to this office UO Note of even number dated 14/15.9.2000 seeking Ministry of External Affairs concurrence to the downgrading/declassification of certain communications received from that Ministry in connection with their submission before the Hon'ble Justice Mukherjee Commission. MEA communicated their concurrence vide their letter No. 25./4/NGO (Vol.V) dtd. 19.9.2000. The undersigned is directed to request that copies of the letters enclosed to the above mentioned PMO UO note of even number dated 14/15.9.2000 may kindly be furnished to this office urgently.



(P.K. Roy)
Under Secretary
OK

Ministry of External Affairs
[Shri L.D. Ralte, JS (CNV)]
South Block, New Delhi.

beval
9/11/06

NGO SECTION

280

While considering for providing papers in connection with an application filed by one Shri Anuj Dhar under the RTI Act, six top secret files have been identified. These files are less than 25 years old and put up for review if their contents attract the provisions of section 8(1) of the RTI Act.

2. In this connection, DS(A) desired that a group of Section Officers may be formed to scrutinize all relevant old papers with particular reference to view taken on declassification earlier while sending papers to Mukherjee Commission or in relation to court cases and submit a statement with comments on that basis as well as comments on declassification for any papers not considered earlier. For papers that have not been declassified earlier and those not proposed to be declassified now, comments also be given with reference to section 8 of RTI Act.

3. It may be suggested that Shri Raj Kumar, SO(Dak) who is my predecessor and Shri Sanjay Singh, SO(Pol) may be included in group of SOs to complete the above work.

Submitted.

P.L.N. Murthy

(P.L.N. Murthy)

7.11.06

'A' for approval pl., with a timeframe of completing the task by 13.11.06 pl.

~~DS(A)~~

~~JS(A)~~

JS
7/11

~~JS(A)~~

Approved
as proposed.

Sanjay Mishra
8/11

~~DS(A)~~

Pl. communicate
today
JS
8/11

8.11.06

JS(U)'s OFFICE

Dy No. 6708

Date 8/11/06

~~JS(A)~~
8/11

Copy for compliance.

JS
8/11/06
So (U) n

7235/JS/K/12
47/DS(A)/13/06 8/11

SO, ~~Admission~~
1. Sh. Raj Kumar, SO
2. Sh. S.K. Singh, SO
2. Sh. P.L.N. Murthy, SO ✓

Reference preceding notes.

Shri Anuj Dhar has made an application under RTI stating that while attending to Justice Mukherjee Commission of Inquiry, he gathered that PMO and RAW are holding several classified records on Netaji Subhash Chandra Bose.

2. In this context he wanted to know whether the information is true or not. If the information is yes, he wanted to have list of all records and materials [classified and unclassified] on or related to Netaji, PMO and RAW are holding. He also wanted to know whether PMO has any plans to transfer these records/materials to National Archives.

3. Political Section has now furnished a list of 45 files in the custody of Political and NGO Sections concerning Netaji Subhash Bose. The files include unclassified, Confidential, Secret and Top Secret files.

4. In this connection, the following aspects may be taken into account while deciding the matter—

- (i) Information which is covered under Section 8(1) of the Act can only be denied.
- (ii) Notwithstanding anything in the Official Secrets Act nor any of the exemptions under Section 8(1) of the Act, information can still be provided if disclosure outweighs the harm to the protected interests.
- (iii) Information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before shall be provided [subject to 8(1) (a), (c) and (i)]
- (iv) In terms of extant instructions any classified document that has survived 25 years stands declassified subject to national security. Moreover, documents surviving 25 years are also required to be transferred to National Archives of India.

5. In the first instance the following decisions may be taken –

- The list of files that can be given to the applicant
- Declassification and transferring of files to NAI.

DS(A) may be requested to examine and a draft reply in the matter.

25/10/20

2-1-10

The files are not currently active and the list are
to be transferred to which the subject belongs. The
information proposed that all the files may be transferred
to the NAI. The information, the application and the draft reply are referred to
the NAI for information. P. 100

(2)

F.P.P

202

There are PMO files and it would not be proper to transfer them to MHA after a query has been received. The following procedure may kindly be approved:-

- i) We may refer the RAW part to the Cabinet Secretariat, ✓
- ii) There are 11 unclassified files, this list could be given to the petitioner right away. ✓
- iii) There are 16 classified files, that are more than 25 years old. Internal procedure to "declassify" may be started and completed within a week. Thereafter, such files as are found fit for declassification could also be made open to access for use by the public. ✓
- iv) Thereafter, the remaining 13 files could be individually scrutinised to see if their contents attract the provisions of Section 3(1)(b) of the Act, after which

E.P.P

a view could be taken under
the RTI Act.

Sanjay Mitta
28/10/2006

AS(P)

31/10/06

Pr. Secy

to proposed; left galkha stage
proposed taken up.

AS

31/10

31/10

AS

AS (A)

31.10.06

31/10

31/10

As per the letter dated 28/10/06, the following information is furnished for the information of the concerned authority.

31/10/06

1772-0-1/2001
1753/AS(P)/2006
1753/AS(P)/2006

NGO SECTION

284

Reference notes on pages 1-3/N.

✓
FIA
Out of 45 files contained in the list prepared by Political Section in consultation with this Section only 8 files listed below belong to NGO Section. All of these files are Top Secret. 2 of the 8 files are more than 25 years old and rest belong to the year 1994 and onwards.

Sl. No.	File No.	Subject
1.	23(11)/56-57-PM	INA Treasure
2.	T-2(64)/78-PM	Death of Netaji Subhash Chandra Bose appointment of an Inquiry Commission to go into the Circumstances of death.
3.	G-12(18)/94-NGO	Controversy regarding Netaji's death and bring his ashes to India from Japan
4.	G-4(2)/95-NGO	Proposal to bring the mortal remains of Netaji Subhas Chandra Bose from Japan to India
5.	G-16(3)/95-NGO	Proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India
6.	G-12(3)/98-NGO	Transfer of the Ashes of Netaji Subhas Chandra to India
7.	G-16(4)/2000-NGO (Vol. I)	Death/Disappearance of Netaji Subhas Chandra Bose - Justice Mukherjee Commission of Inquiry
No. Documents 8.	G-16(4)/2000-NGO (Vol. II)	Death/Disappearance of Netaji Subhas Chandra Bose - Justice Mukherjee Commission of Inquiry

✓
FIC
2. As per the instructions contained in MHA OM No. III/11014/6/97-IS(D.III) 6th February, 2002. "Automatic declassification" of the classified records may take place after 25 years except in cases where particular information may require to remain classified beyond this period for reasons of National Security and National interest. An officer one level higher than the officer competent to review the files for declassification may take a decision in such cases. In PMO an officer of the rank of Director and above is competent to conduct such review for declassification of TS files more than 25 years old. Concurrence of the originating Ministry/Department is not required in such cases.

From pre page:

285

3. We may submit the above mentioned 2 TS files that are more than 25 years old to JS(M) for review so that if found fit for declassification they are made open to access or transferred to the National Archives.

'A'

4. The rest of the 6 Top Secret files that are less than 25 years old are also put up for review if their contents attract the provisions of section 8(1).

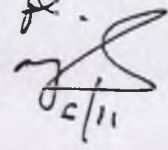
Submitted please.

~~Shash~~
06/11/06

Rajni
06/11/06

'A' submitted for approval pl.

~~DS(A)~~
~~JS(M)~~


5/11

File T-2(64)/78 - PM is already
declassified. File 23(11)/56-57 - PM/NGO

I have gone
relates to INA Treasure.
through the file and its contents.
I feel that it can be de-classified
and sent to the National Archives.
Pl. separate the two files and
resubmit.

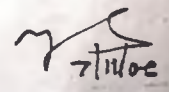
Sanjay Mitta
7.11.2006

~~DS(A)~~

1. Discussed with JS(M) and, thereafter, with SO(NGO).
2. Accordingly, SO(NGO) to immediately submit a separate self-contained note on 'A'. Action today.
3. Further, SO(NGO) to submit a note for a group of SOs to scrutinise all relevant papers with particular reference to view taken on declassification earlier while sending papers to Mukherjee Commission or in relation to court cases and submit a statement with comments on that basis as well as comments on declassification for any papers not considered earlier. For papers that have not been declassified earlier and have not proposed to be declassified now, comments also be given w.r.t. S.P., RTI Act. Action today.

1813/3(M)/16

46/TS/DSA/06/6/11 SO(NGO)


7/11/06

286

Most Immediate

PRIME MINISTER'S OFFICE
[POLITICAL SECTION]

South Block, New Delhi – 110 101

Sub: Writ Petition No.8215(W)/2008 filed in the Calcutta High Court by the Subhash Chandra Basu & Anr. Vs UOI & Ors.

Reference is invited to Ministry of Home Affairs' ID note no. 12014/6/2008-Cdn dated March 16, 2009 on the above subject.

2. The following relevant documents on the subject are being forwarded:
- (i) Copy of the letter by which the list of the files on Netaji Subhas Chandra Bose provided to CIC with reference to a RTI request of Shri Anuj Dhar, r/o Vikas Puri, New Delhi.
 - (ii) Copies of the letters dated July 4, 2000 and July 25, 2000, by which the list of files on disappearance of Netaji Subhas Chandra Bose was provided to the Justice Mukherjee Commission of Inquiry.
 - (iii) Copy of the letter dated July 24, 2000 by which the list of Top Secret files on disappearance of Netaji Subhas Chandra Bose was provided to the Justice Mukherjee Commission of Inquiry. [Top Secret document, being sent separately].
3. The Justice Mukherjee Commission of Inquiry was not made available the following 4 files due to the following reasons, out of the list of files made available to CIC:
- (a) Files at Sl. No. 19 and 20 – The files does not relate to disappearance of Netaji Subhash Chandra Bose, but related to Bharat Ratna Award.
 - (b) Files at Sl. No. 30 and 31 - Request of Justice Mukherjee Commission of Inquiry seeking relevant Top Secret files, were dealt with on these two files.
4. I am directed to request that the Ministry of Home Affairs may kindly take necessary action in the matter.

(Amit Agrawal)

Director

Tel. 2301 2613

Fax No. 23016857

Home Secretary

PMO ID no. 1249196/PMO/2009-Pol.

Dated March 19, 2009

Encl: as above

n.o.o.

Copy, with enclosures, to:

Ministry of Home Affairs [Attn: Shri S. K. Malthora, Deputy Secretary]

All the documents except T.S.
are in Pol. Section.

19.3.09

Sh. H.K.

287
BY SPEED POST

TOP SECRET

PRIME MINISTER'S OFFICE

No. G-16(4)/2000-NGO

Dated the 24th July, 2000.

From: Ms. Archana Ranjan,
Director,
Prime Minister's Office,
South Block,
New Delhi-110011.

To: Shri P.K. Sengupta,
WBHJS(Retd.),
Secretary,
Justice Mukherjee Commission of Inquiry,
B-Block (Third Floor),
11/A, Mirza Ghalib Street,
Calcutta-700 087.

For Acknowledgement
see page
10/c.

Sir,

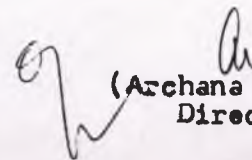
In continuation of my letter No.915/11/C/2/2000-Pol dated 4th July, 2000, the photo-copies of the following Top Secret/Secret files are forwarded:-

Sl. No.	File No.	Subject
27 - 1.	23(11)/56-57-PM (T.S.)	I.N.A. Treasure.
2.	2(64)/56-66-PM (T.S.) (Vol.II)	1. Death of Shri Subhash Chandra Bose. 2. Appointment of an Enquiry Committee to go into the circumstances of the death.
3.	G-12(18)/94-NGO (T.S.)	Controversy regarding Netaji's death and bringing his ashes to India from Japan.
4.	G-16(3)/95-NGO (T.S.)	Proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India.
5.	G-4(2)/95-NGO (T.S.)	Proposal to bring the mortal remains of Netaji Subhash Chandra Bose from Japan to India - (Cabinet Meeting).
29 6.	G-12(3)/98-NGO (T.S.)	Transfer of the Ashes of Netaji Subhas Chandra Bose to India.
28 7.	T-2(64)/78-PM (Secret)	Death of Netaji Subhas Ch. Bose - Appointment of an inquiry commission to go into the circumstances of death. ...2/-

2. Please acknowledge receipt.

3. It is further requested that while information contained in the 'Top Secret' papers may be made use of by the Commission, in camera, since these are classified as 'Top Secret', they may kindly consider not publishing the same.

Yours faithfully,


(Archana Ranjan)
Director

Ends. As above.



These documents are:

1. It is a document requested by the Intelligence Committee of the House of Representatives, dated May 12, 1954, and is in the possession of the Committee. It is a document which is highly classified and contains information of a highly confidential nature.

Very truly,
Yours faithfully,

Director
Central Intelligence Agency
Washington, D.C.

Enclosed

18-3-09
V.R. Simon



सत्यमेव जयते

विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

289

Confidential

Jayant Prasad
Joint Secretary(CNV)
Tel: 301-1357 & Fax : 379-2285

No. 25/4/NGO-VolV

November 23, 2000

Dear Dr. Chaudhury,

Apropos your letter No. DGNM-2/2000 dated November 22, 2000 regarding declassification of records in connection with papers to be shown to the Justice Mukherjee Commission, we notice that the enclosures to your letter proposed for declassification did not originate from MEA. There is no question, therefore, of our giving any clearance for declassifying them. The papers are apparently extracts of the accession register of the National Museum itself. Your organisation may therefore, like to take the view on their declassification.

2. I might add that on part of this Ministry, we have already conveyed our 'No Objection' to the Commission viewing Netaji's treasures.

Yours sincerely,

Jayant Prasad

Dr. R. D. Choudhury
Director General
National Museum
New Delhi.

CC: Mrs. Archana Ranjan, Director, PMO, New Delhi.

best wishes.

Ing
21/11